

CALIFORNIA HORSE RACING BOARD  
1010 HURLEY WAY, SUITE 300  
SACRAMENTO, CA 95825  
(916) 263-6000  
FAX (916) 263-6042



## REGULAR MEETING

of the California Horse Racing Board will be held on Thursday, December 15, 2011, commencing at 10:00 a.m., in the Sunset Room at the Hollywood Park Race Track, 1050 South Prairie Ave., Inglewood, California. The audio portion only of the California Horse Racing Board regular meeting will be available online through a link at the CHRB website ([www.chrb.ca.gov](http://www.chrb.ca.gov)) under "Webcasts."

### AGENDA

#### Action Items:

1. **Public Comment:** Communications, reports, requests for future actions of the Board.  
**Note:** Persons addressing the Board under this item will be restricted to three (3) minutes for their presentations.
2. Discussion and action by the Board regarding the distribution of race day charity proceeds of the Del Mar Thoroughbred Club in the amount of \$137,534 to 17 beneficiaries.
3. Discussion and action by the Board regarding the feasibility of amending CHRB Rule 1865, Altering of Sex of Horse and possibly CHRB Rule 1974, Wagering Interest, in recognition of repeated problems in reporting the gelding of horses in the prescribed manner.
4. Discussion and action by the Board regarding the feasibility of amending CHRB Rule 1658, Vesting of Title to Claimed Horse, which allows a claim to be void if a claimed horse suffers a fatality during the running of the race or before it is returned to be unsaddled.
5. Discussion and action by the Board regarding an update from Santa Anita Park Race Track regarding its repair efforts at the track following the recent severe storm damage.
6. Discussion and action by the Board regarding a report from the California Marketing Committee (CMC) regarding its 2012 marketing and promotion plans pursuant to Business and Professions Code section 19605.73 (b).
7. Discussion and action by the Board about requiring paramedics in the on track ambulance.

8. Discussion and action by the Board regarding the allocation of the 2012 precise race dates and overlap with Pacific Racing Association at Golden Gate Fields and the Humboldt County Fair Race meeting at Ferndale.
9. Discussion and action by the Board on the Application for Approval to Conduct Advance Deposit Wagering (ADW) of ODS Technologies, L.P., dba TVG, for an out-of-state multi-jurisdictional wagering hub, for a period of up to two years.
10. Discussion and action by the Board on the Application for License to Conduct Advance Deposit Wagering (ADW) of XpressBet, LLC, for a California multi-jurisdictional wagering hub, for a period of up to two years.
11. Discussion and action by the Board on the Application for Approval to Conduct Advance Deposit Wagering (ADW) of Churchill Downs Technology Initiatives Company, dba Twinspires.com, for an out-of-state multi-jurisdictional wagering hub, for a period of up to two years.
12. **Closed Session:** For the purpose of receiving advice from counsel, considering pending litigation, reaching decisions on administrative licensing and disciplinary hearings, and personnel matters, as authorized by section 11126 of the Government Code.
  - A. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending litigation described in the attachment to this agenda captioned "Pending Litigation," as authorized by Government Code section 11126(e).
  - B. The Board may convene a Closed Session to confer with and receive advice from its legal counsel regarding the pending administrative licensing or disciplinary matters described in the attachment to this agenda captioned "Pending Administrative Adjudications," as authorized by Government Code section 11126(e).

Additional information regarding this meeting may be obtained from the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, CA 95825; telephone (916) 263-6000; fax (916) 263-6042. This notice is located on the CHRB website at [www.chrb.ca.gov](http://www.chrb.ca.gov). \*Information for requesting disability related accommodation for persons with a disability who require aid or services in order to participate in this public meeting, should contact Jacqueline Wagner.

**CALIFORNIA HORSE RACING BOARD**

Keith Brackpool, Chairman  
David Israel, Vice Chairman  
Jesse H. Choper, Member  
Bo Derek, Member  
Jerry Moss, Member  
Richard Rosenberg, Member  
Kirk E. Breed, Executive Director

Date of Notice: December 5, 2011

CALIFORNIA HORSE RACING BOARD  
1010 HURLEY WAY, SUITE 300  
SACRAMENTO, CA 95825  
(916) 263-6000  
FAX (916) 263-6042



PENDING LITIGATION  
DECEMBER 2011

SUPERIOR COURT LITIGATION

- A. **Patrick Gleason vs. Anne Glasscock and the California Horse Racing Board**  
Superior Court of California, County of Sacramento, Case No. 34-2010-00076781
- B. **Jeff Mullins vs. CHRB, et al**  
Superior Court of California, County of San Diego, Case No. 37-2010-00092212
- C. **Morteza Atashkar vs. CHRB**  
Superior Court of California, County of Sacramento, Case No. 34-2011-00102154
- D. **San Luis Rey Racing, Inc., vs. CHRB, et al**  
Superior Court of California, County of San Diego, Case No. 37-2011-00096586

CALIFORNIA HORSE RACING BOARD

DECEMBER 15, 2011  
REGULAR BOARD MEETING

There is no board package material for Item 1

STAFF ANALYSIS  
DISCUSSION AND ACTION BY THE BOARD REGARDING THE  
DISTRIBUTION OF RACE DAY CHARITY PROCEEDS OF THE  
DEL MAR THOROUGHBRED CLUB  
IN THE AMOUNT OF \$137,534 TO 17 BENEFICIARIES

Regular Board Meeting  
December 15, 2011

## BACKGROUND

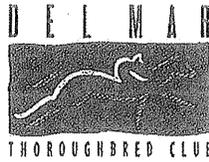
Business and Professions Code section 19550 states the Board shall require each licensed racing association that conducts 14 or less weeks of racing to designate three racing days, and each licensed racing association that conducts more than 14 weeks of racing to designate five racing days during any one meeting, to be conducted as charity days by the licensee for the purpose of distribution of the net proceeds therefrom to beneficiaries through the distribution agent. No racing association shall be required to pay to a distributing agent for the purpose of distribution to beneficiaries more than an amount equal to two-tenths of one percent of the association's total on-track handle on live races conducted by the association at the meeting. Business and Professions Code section 19555 requires that proceeds are to be distributed to beneficiaries within 12 calendar months after the last day of the meet during which charity days were conducted. Business and Professions Code section 19556 provides that the distributing agent shall make the distribution to beneficiaries qualified under this article. At least 20 percent of the distribution shall be made to charities associated with the horse racing industry. An additional five percent shall be paid to a welfare fund and another five percent shall be paid to a non-profit corporation, the primary purpose of which is to assist horsemen and backstretch personnel who are being affected adversely as a result of alcohol or substance abuse. In addition to the above distributions, a separate 20 percent shall be made to a nonprofit corporation or trust, the directors or trustees of which shall serve without compensation except for reimbursement for reasonable expenses, and which has as its sole purpose the accumulation of endowment funds, the income on which shall be distributed to qualified disabled jockeys.

## ANALYSIS

The Del Mar Thoroughbred Club is requesting approval to distribute race day charity proceeds generated from July 20, 2011 through September 7, 2011. According to the Handle and Attendance report from CHRIMS, two tenths of one percent of total on-track handle, on live races conducted at the Del Mar Thoroughbred Club is \$137,534, and should be distributed as charity proceeds. The organizations selected, and the amounts to be distributed are listed on the following attachments. Staff notes that approximately 86 percent of the proceeds will be given to horse racing related organizations.

## RECOMMENDATION

This item is presented for Board discussion and action. Staff recommends the Board approve the charity race day distribution as presented.



**Michael R. Ernst**  
*Executive Vice President and  
 Chief Financial Officer*

November 28, 2011

Mr. Kirk Breed  
 California Horse Racing Board  
 1010 Hurley Way, Suite 300  
 Sacramento, CA 95825

Dear Mr. Breed:

The Del Mar Thoroughbred Club Board of Directors has allocated charity day proceeds as set forth below for the California Horse Racing Board's consideration and approval:

Disabled Jockeys*	\$27,507
California Center for Equine Health and Performance*	25,000
Winners Foundation*	12,500
Edwin J. Gregson Foundation*	10,000
University of Arizona Racetrack Industry Program*	10,000
Racing and Medication Testing Consortium*	9,057
California Thoroughbreds Horsemen's Foundation*	6,877
California Equine Retirement Foundation *	5,000
Don Diego Scholarship Fund	5,000
Tranquility Farms*	5,000
Friends of the Powerhouse	5,000
California Thoroughbred Foundation*	4,000
Grayson-Jockey Club Research Foundation*	4,000
Children's Hospital of San Diego	3,000
San Diego Hospice	3,000
YMCA of San Diego County	1,250
San Dieguito Boys & Girls Club	1,343
<b>TOTAL:</b>	<b>\$137,534</b>
Equine Related Charities*	\$118,941
Non - Equine Related	18,594
Percentage of Equine Related Charities	86.5%

Attached please find a schedule describing the charitable organizations listed above. Thank you for your attention to this matter and I look forward to hearing from you soon. If you need further information, please call me.

Very truly yours,

Michael R Ernst

Cc: Jackie Wagner  
 Yannet De Garcia

**CHRB ANALYSIS**  
**Del Mar Thoroughbred Club 2011 Charity Day Proceeds**

#	Nonprofit Organization	Amount	Proposed Disbursement Percentage	Percentage Required By Horse Racing Law (from the 2/10 of 1%)	Notes
1	Permanently Disabled Jockeys Fund	27,507.00	20%	minimum of 20%	d
2	California Center for Equine Health and Performance	25,000.00	18%		a
3	Winners Foundation	12,500.00	9%	minimum of 5%	c
4	Edwin J. Gregson Foundation	10,000.00	7%		a
5	University of Arizona Racetrack Industry Program	10,000.00	7%		a
6	Racing and Medication Testing Consortium	9,057.00	7%		a
7	CA Thoroughbred Horsemen's Foundation	6,877.00	5%	minimum of 5%	b
8	California Equine Retirement Foundation	5,000.00	4%		a
9	Don Diego Scholarship Fund	5,000.00	4%		
10	Tranquility Farms	5,000.00	4%		a
11	Friends and Powerhouse	5,000.00	4%		
12	California Thoroughbred Foundation	4,000.00	3%		a
13	Grayson-Jockey Club Research Foundation	4,000.00	3%		a
14	Children's Hospital of San Diego	3,000.00	2%		
15	San Diego Hospice	3,000.00	2%		
16	YMCA of San Diego County	1,250.00	1%		
17	San Dieguito Boys and Girls Club	1,343.00	1%		
	<b>Total</b>	<b>137,534.00</b>	<b>100%</b>	<b>minimum of 50%</b>	<b>e</b>
	<b>Notes:</b>				
	a	20% to charities associated with the horse racing industry (B&P 19556 (b))			
	b	5% to welfare fund for backstretch personnel (B&P 19556 (b))			
	c	5% to nonprofit organization to assist horsemen and backstretch personnel affected by alcohol and substance abuse(B&P 19556 (b))			
	d	20% to nonprofit organization that benefits qualified disabled jockeys (B&P 19556 (c)(1))			
	e	overall a minimum of 50% of the charity distribution should go to horse racing industry related nonprofit organizations.			
	Background information for each organization is attached.				

**Del Mar Thoroughbred Club  
Charitable Organization Descriptions**

**Permanently Disabled Jockeys Fund** – Founded in 2006, it is a collaborative effort of many leaders in the horse racing industry, including racetracks, jockeys, horsemen and others. It is a public charity that currently provides financial assistance to approximately 60 former jockeys who have suffered catastrophic on-track injuries. It recently was the winner of the National Turf Writers and Broadcasters prestigious Joe Palmer Award for its exceptional work. Nancy LaSala is the group's president. (Contact phone: 630-595-7660; [www.pdjf.org/](http://www.pdjf.org/))

**California Center for Equine Health and Performance** – The Center for Equine Health (CEH) was established at University of California Davis School of Veterinary Medicine in 1973. The primary purpose of CEH is to serve as an administrative and academic umbrella for research into means and methods of improving equine health and performance. In conjunction with this, it produces a series of publications that disseminate its findings and pertinent information. Additionally, it serves as the West Coast's quarantine and treatment station for the potentially devastating venereal disease contagious equine metritis. The center is headed by the renown veterinarian Gregory L. Ferraro (Contact phone: 530-752-6433; [glferraro@ucdavis.edu](mailto:glferraro@ucdavis.edu))

**Winners Foundation** – The Winners Foundation was founded in 1984 as a non-profit organization to provide information, support and referral sources to employees and family members of the California horse racing community who are being adversely affected as a result of alcohol and/or substance abuse. There is no charge to anyone seeking aid through the group, which has aided and guided thousands of individuals since its inception. It is currently headed by Bob Fletcher. (Contact phone: 626-945-0880; <http://winnersfoundation.org/>)

**Edwin J. Gregson Foundation** – The foundation has a primary goal of benefitting and enhancing the quality of life of California's backstretch workers and their families. It was originally founded by the California Thoroughbred Trainers (CTT) in 1998 and renamed in memory of veteran trainer and past CTT president Edwin J. Gregson, who was the driving force behind its start. Notable among its benefits are the college scholarships it provides annually to family members of backstretch workers. Jenine Sahadi currently heads the foundation. (Contact phone: 626-447-2145; [www.gregsonfoundation.com](http://www.gregsonfoundation.com))

**University of Arizona Racetrack Industry Program** – The program, which was established as part of the University of Arizona’s Animal Science Department in 1974, was the first of its kind to train young men and women to become future leaders in the racing industry. Since its inception it has produced more than 500 graduates for the pari-mutuel industry in areas of expertise ranging from the frontside to the backside. It also hosts the largest gathering of racetrack executives and leaders annually at its “RTIP Symposium” in Tucson in December. Doug Reed is the director of the program. (Contact phone: 520-621-5660; <http://ag.arizona.edu/rtip/>)

**Racing Medication and Testing Consortium** -- Founded in 2000 by a cross-section of racing leaders, the Racing Medication and Testing Consortium (RMTTC) has a primary goal of developing and promoting uniform rules, policies and testing standards at the national level for racehorses. The tax-deductible organization seeks to coordinate research and educational programs to ensure the integrity of racing and the health and welfare of racehorses and participants, as well as to protect the interests of the racing public. It is currently governed by a Board of Directors consisting of 25 racing industry stakeholders. Its executive assistant for administration is Rebecca Hills. (Contact phone: 859-224-2844; [www.rmtcnet.com/](http://www.rmtcnet.com/))

**California Thoroughbred Horsemen’s Foundation** – The California Thoroughbred Horsemen’s Foundation (CTHF) is a non-profit charitable foundation dedicated to improving the quality of life in the community of stable workers at California’s racetracks and training centers. It was founded in 1983 and, among its other projects, currently conducts Monday through Friday medical and dental clinics in both Northern and Southern California that are free for stable workers and their families. Kevin Bolling is the executive director of CTHF. (Contact phone: 626-446-0196; [www.cthf.info/](http://www.cthf.info/))

**California Equine Retirement Foundation** – The California Equine Retirement Foundation (CERF) was founded in 1986 by a former teacher and racing fan named Grace Belcoure, who since has dedicated her life to it. It provides charitable assistance and care to retired race and performance horses, either through permanent retirement or rehabilitation into other careers. It was recently accredited by the Global Federation of Animal Sanctuaries. It has cared for more than 300 horses since its inception and currently houses between 70 and 75 resident horses at its ranch in Winchester, CA. (Contact phone: 951-926-4190; [www.cerfhorses.org/](http://www.cerfhorses.org/))

**Don Diego Fund** -- Tom Hernandez created the role of the dashing Don Diego and was the legendary host of the San Diego County Fair from 1947 until his death in 1984. The fund was created in his memory and provides college scholarships for outstanding San Diego County high school students who have participated in the annual Fair or other events associated with the Del Mar Fairgrounds. To date, the tax-exempt organization has distributed more than a half-million dollars in scholarships. Chana Mannen is its executive director. (Contact phone: 858-792-4210; [cmannen@sdfair.com](mailto:cmannen@sdfair.com))

**Tranquility Farm** – Founded in 1998, Tranquility Farm is currently a home to more than 100 retired Thoroughbreds for rehabilitation, retraining or comfortable retirement. The facility, founded by horse owner and breeder Gary Biszantz to honor his late father Harry, has been a safe haven for hundreds of former racehorses in the mountain valley of Tehachapi, CA, and has aided in the adoption and rescue of many of its equine residents. Priscilla Clark oversees the farm. (Contact phone: 661-823-0307; [www.tranquilityfarmtbs.org](http://www.tranquilityfarmtbs.org))

**Friends of the Powerhouse** – This not-for-profit volunteer group, which has raised funds to aid the city of Del Mar in the renovation of its Powerhouse building and park at the water's edge in the seaside community, also helps providing funding and equipment for the city's lifeguards. Besides their obvious duties on the beaches, the lifeguards organize and help run the annual day-long beach picnic for Del Mar racetrack's backstretch workers and their families, undoubtedly the most anticipated and popular group event on the racing calendar each year. Their work in this regard falls directly in line with the goal of benefitting and enhancing the quality of life of California's hard-working backstretch community. (Contact phone: 858-755-5220; [www.friendsofthepowerhouse.org/](http://www.friendsofthepowerhouse.org/))

**California Thoroughbred Foundation** – The non-profit, founded in 1958, funds education, research and development in equine-related projects in many areas of California's Thoroughbred industry. Its annual veterinary scholarships for students at UC Davis are highly coveted – two to senior undergraduates, as well

as a fellowship to a graduate student pursuing a doctorate. Additionally, the CTF equips and maintains the Carlton F. Burke Memorial Library at the California Thoroughbred Breeders' Association headquarters in Arcadia, a notable historical resource of more than 10,000 volumes. James Murphy is a contact person for CTF. (Contact phone: 626-445-7800; <http://ctba.com/foundation-and-library>)

**Grayson-Jockey Club Research Foundation** – The Grayson-Jockey Club Research Foundation is perhaps the best-known non-profit charitable foundation committed to the advancement of research to enhance the health and soundness of horses of all breeds. Originally founded in 1940 as the Grayson Foundation, it merged with The Jockey Club research foundation in 1989 and has since distributed millions of dollars for hundreds of projects both nationally and overseas that have aided key equine research needs. Edward L. Bowen is the contact for the foundation. (Contact phone: 859-224-2851; [www.grayson-jockeyclub.org/](http://www.grayson-jockeyclub.org/))

**Children's Hospital of San Diego** – Officially called Rady Children's Hospital San Diego, it opened in 1954 to receive its first 12 patients. Since then, nearly two million sick and injured children have been treated at the state-of-the-art facility. It is San Diego County's only hospital dedicated strictly to pediatrics and the region's designated pediatric trauma center. The hospital boasts nationally renown physicians, advanced research and innovative treatments. It is considered among the best children's hospitals in the world. (Contact phone: 858-576-1700; [www.rchsd.org/](http://www.rchsd.org/))

**San Diego Hospice** – The San Diego Hospice and Institute for Palliative Medicine helps families deal with life-limiting illnesses, addressing their physical, emotional and spiritual needs through support and practical help. Their goal is to prevent and relieve suffering and promote quality of life at every stage of life, notably the final ones. They are a non-profit organization currently headed by Kathleen Pacurar, their president and chief executive officer. (Contact phone: 1-866-688-1600; [www.sdhospice.org/](http://www.sdhospice.org/))

**YMCA of San Diego County** – The YMCA of San Diego County, part of the well-know, worldwide youth development, healthy living and social responsibility organization, can claim that it touches the lives of nearly one in 10 people in San Diego County. The first YMCA was founded in London in 1844 and the first in the U.S. was in Boston in 1851. The original San Diego YMCA was built in 1882. Since then tens of millions have taken part in YMCA programs through their clubs and facilities across the globe. (Contact phone: 858-292-9622; [www.ymca.org/](http://www.ymca.org/))

**San Dieguito Boys & Girls Club** – The San Dieguito Boys & Girls Club is a youth-oriented organization that specializes in personal development, quality after-school programs and activities, innovative programs in academics, arts and athletics, and competitive sports teams and middle school programs. Founded in 1967, the non-profit organization has had a major impact on tens of thousands of North Country San Diego youth. As it did at its start, the club at its Solana Beach facility continues to offer a clean, safe and fun environment to young people with opportunities to learn, grow and give back to the community, fostering a sense of belonging, usefulness and competence in the youths it serves. Keith Padgett is its president and CEO (Contact phone: 858-755-9371; [www.positiveplacesd.org/](http://www.positiveplacesd.org/))

STAFF ANALYSIS  
DISCUSSION AND ACTION BY THE BOARD REGARDING THE FEASIBILITY OF  
AMENDING CHRB RULE 1865, ALTERING OF SEX OF HORSE AND POSSIBLY CHRB  
RULE 1974, WAGERING INTEREST, IN RECOGNITION OF REPEATED PROBLEMS IN  
REPORTING THE GELDING OF HORSES IN THE PRESCRIBED MANNER.

Regular Board Meeting  
December 15, 2011

## BACKGROUND

Business and Professions Code section 19420 provides that jurisdiction and supervision over racing meetings in California and over all persons or things having to do with such meetings is vested in the California Horse Racing Board (Board). Business and Professions Code section 19440 states responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19460 (b) states that all licenses granted under this chapter are subject to all rules, regulations, and conditions prescribed by the board. Business and Professions Code section 19562 states the Board may prescribe rules, regulations, and conditions under which all horse races with wagering on their results shall be conducted in California. CHRB Rule 1865 states in part: (d) A trainer who enters a horse, or who causes a horse to be entered on his behalf, is responsible for ensuring that the true sex of the entered horse is listed on its certificate of registration on file in the racing office. (1) If the true sex of a horse is not correctly identified in the official program for the race in which the horse is entered, the trainer of the horse shall be subject to a minimum fine of \$1,000.

## ANALYSIS

Despite concerted efforts by the CHRB and racing officials, violations of Rule 1865 continue – usually because the trainer fails to notify the racing office that a horse has been gelded. In many cases this information is not made public until the horse reaches the receiving barn about 45 minutes before the horse is scheduled to race. By the time the horse identifier at the receiving barn notifies the stewards of the sex change, it is too late to include that horse in multi-race wagers (e.g. Pick Six) that began with races already run.

The matter has come before the Board many times over the years, resulting in various efforts to correct the problem. For example, the Board had entry cards printed with bold lettering asking trainers entering their horses to indicate the sex of the horse on the card. The results were unsatisfactory. Later, the examining veterinarians were asked to check the sex of horses during their rounds on the morning of the race. Some official veterinarians still do this, but somehow exceptions slip through the cracks. Some stewards urge the horse identifiers to check the entries for sex and to contact the trainers of horses identified as “colts” to confirm the sex of the horse. But still, the violations continue.

In 2007, the stewards issued 44 rulings against trainers who had not reported the gelding of horses by entry time for their first race after the operation. There have been 18 such rulings in

In 2007, the stewards issued 44 rulings against trainers who had not reported the gelding of horses by entry time for their first race after the operation. There have been 18 such rulings in the last 19 months. Staff contacted the stewards, CHRB investigators, and racing secretaries in an effort to determine whether there were any violations beyond these 18 rulings against trainers that were attributable to racing offices or others. The sketchy information received suggests there have been very few cases involving someone other than the trainer.

When the Board last considered this problem in 2009, one option was to increase the penalty to a minimum fine of \$1,000 for a trainer if the true sex of the horse was not listed in the official program. A second option was to scratch the horse. After a discussion, the Board voted to amend Rule 1865 to impose a fine of \$1,000 in cases where the true sex of the horse was not identified in the program. The Board also added a provision that allowed the stewards to consider mitigating circumstances when imposing a fine. This has enabled the stewards to impose fines of less than \$1,000.

Recently, a horse won a race at Hollywood Park and paid \$56.80. This was its first race after being gelded, and the race marked a dramatic form reversal for the horse. The public learned of the sex change approximately 30 minutes before the horse was scheduled to run –too late for most bettors to evaluate the new information and possibly include the horse in the Pick Six, which began with the previous race.

When the Board contemplated amending Rule 1856 in 2009 it considered fines greater than \$1,000 – or scratching the horse. The \$1,000 fine was adopted because it was thought to be steep enough to get a trainer's attention, yet not onerous. Recently, a third option has been suggested: to have the horse run for purse money only. If the Board were to select such an option Rule 1974, Wagering Interest, would also have to be amended to require that a horse run for purse money only if information that the horse had been gelded is not made available to the public until after the closing of any wagering pool in which that horse is involved.

#### RECOMMENDATION

This item is presented for Board discussion and action.

CALIFORNIA HORSE RACING BOARD  
TITLE 4. CALIFORNIA CODE OF REGULATIONS  
ARTICLE 15. VETERINARY PRACTICES  
RULE 1865. ALTERING OF SEX OF HORSE

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December 15, 2011

1865. Altering of Sex of Horse.

Any alteration to the sex of a horse from the sex as recorded on the certificate of foal registration or the eligibility certificate or other official registration certificate of the horse shall be reported to the racing secretary and the official horse identifier if the horse is entered to race at any race meeting.

(a) If a racehorse is gelded or castrated on the premises of a licensed racing association, or other facility under the jurisdiction of the Board, the trainer shall report the alteration within 72 hours.

(b) If a racehorse is gelded or castrated off the premises of a licensed racing association, or other facility under the jurisdiction of the Board, and the horse has been previously entered to race at any race meeting in this State, the owner and/or trainer shall report the alteration at the time the horse is next entered to race.

(c) A report of gelding or castration will include the name of the veterinarian performing the alteration and the date of the alteration, and shall be recorded on the official registration certificate and the official horse identification record of the horse.

(d) A trainer who enters a horse, or who causes a horse to be entered on his behalf, is responsible for ensuring that the true sex of the entered horse is listed on its certificate of registration on file in the racing office.

(1) If the true sex of a horse is not correctly identified in the official program for the race in which the horse is entered, the trainer of the horse shall be subject to a minimum fine of \$1,000.

(2) Deviation from the minimum fine in subsection (d)(1) of this regulation is appropriate if the trainer can demonstrate mitigating circumstances. Mitigating circumstances may include, but are not limited to:

(A) Errors made by other parties in recording information correctly provided by the trainer.

Authority: Sections 19420, 19440, 19460 and 19562,  
Business and Professions Code.

Reference: Sections 19420, 19562 and 19661,  
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD  
TITLE 4. CALIFORNIA CODE OF REGULATIONS  
ARTICLE 18. PARI-MUTUEL WAGERING  
RULE 1974. WAGERING INTEREST

Regular Board Meeting  
December 15, 2011

1974. Wagering Interest.

(a) A wagering interest is any one horse in a race.

(b) If a horse is removed from the wagering pool due to a totalizator error, or due to any other error, and neither the trainer nor the owner is at fault, the horse shall start in the race as a non-wagering interest for the purse only and shall be disregarded for pari-mutuel purposes.

(c) If a horse is removed from the wagering pool to start in a race as a non-wagering interest for purse only and is disregarded for pari-mutuel purposes, the circumstances shall be announced over the public address system at the time the action is taken and thereafter to adequately inform the public. The racing association shall also inform off-track wagering outlets at the time such action is taken.

Authority: Sections 19420 and 19440,  
Business and Professions Code.

Reference: Section 19562,  
Business and Professions Code.

STAFF ANALYSIS  
DISCUSSION AND ACTION BY THE BOARD REGARDING THE FEASIBILITY OF  
AMENDING CHRB RULE 1658, VESTING OF TITLE TO CLAIMED HORSE, WHICH  
ALLOWS A CLAIM TO BE VOID IF A CLAIMED HORSE SUFFERS A FATALITY  
DURING THE RUNNING OF THE RACE OR BEFORE IT IS RETURNED TO BE  
UNSADDLED.

Regular Board Meeting  
December 15, 2011

## BACKGROUND

Business and Professions Code section 19420 provides that jurisdiction and supervision over horse racing meetings in California and over all persons or things having to do with such meetings is vested in the California Horse Racing Board (Board). Business and Professions Code section 19440 states responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. CHRB Rule 1658 (a), Vesting of Title to Claimed Horse, provides that title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter; and said successful claimant becomes the owner of the horse whether it is sound or unsound, or injured during the race or after it as specified. Subsection (b) states the stewards shall void the claim if the horse suffers a fatality during the running of the race or before the horse is returned to be unsaddled.

## ANALYSIS

In July 2011, the Board adopted an amendment to Rule 1658 that requires the stewards to void a claim if the horse suffers a fatality during the running of the race or before it can be returned to the unsaddling area. The intent of the amendment is to protect horses and riders by discouraging the racing of horses that should not be competing for soundness reasons.

On December 2, 2011, the mare Dave's Revenge was pulled up just past the wire after running second in the fourth race at Hollywood Park. By order of the racing veterinarian, she was removed from the track in the horse ambulance, and shortly thereafter she was euthanized. There was an \$8,000 claim for the mare. Based on their interpretation of Rule 1658, the stewards allowed the claim to stand because death did not occur before the horse was returned to be unsaddled. Rule 1658 states that a horse must suffer a fatality during the running of the race for a claim to be voided. If the horse is removed from the track and later euthanized, the claim stands. It is accepted industry and racetrack policy to move an injured horse off the track if possible. This is done in the best interests of the horse. The condition of the horse can be more properly considered off the racetrack in a less stressful environment. X-rays can be ordered and analyzed before making a life-and-death decision about the horse. The decision to remove a horse by ambulance is made by the official racing (track) veterinarian, based on his or her professional veterinary evaluation. The racing veterinarian also makes the decision about on-track euthanasia.

The December 2 incident has caused considerable discussion about the clarity of Rule 1658 and how it might be applied under various scenarios.

Commissioner Derek and CHRB Equine Medical Director Dr. Rick Arthur have recommended that a discussion about a possible amendment of Rule 1658 be held at the next Track Safety and Medication Committee meeting, which is tentatively scheduled for January 10, 2012. Dr. Arthur has provided recommendations for language to clarify the regulation. CHRB Steward Scott Chaney also provided suggested language. A draft text that incorporates the new suggested provisions is attached. The text provides that if the horse is unable to return to the unsaddling area under its own power the claim shall be void. This will cover those instances when an injured horse is vanned off the track. An additional provision voids claims where a horse is placed on the vets list as broke down as a result of running in the race, and in the opinion of the official or racing veterinarian is injured so severely that the horse is not expected to survive.

#### RECOMMENDATION

This item is presented for Board discussion and action.

DRAFT

CALIFORNIA HORSE RACING BOARD  
 TITLE 4. CALIFORNIA CODE OF REGULATIONS  
 ARTICLE 7. CLAIMING RACES.  
 RULE 1658. VESTING OF TITLE TO CLAIMED HORSE.

Regular Board Meeting  
 December 15, 2011

1658. Vesting of Title to Claimed Horse.

(a) Title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter; and said successful claimant becomes the owner of the horse whether it is sound or unsound, or injured during the race or after it, except as otherwise provided for by this rule. Only a horse which is officially a starter in the race may be claimed. A subsequent disqualification of the horse by order of the stewards or the Board shall have no effect upon the claim.

(b) The stewards shall void the claim and return the horse to the original owner if:

(1) the horse suffers a fatality during the running of the race; or before the horse is returned to be unsaddled

(2) is unable to return to the unsaddling area under its own power;

(3) Is placed on the veterinarian's list as broke down as a result of the running of the race.

For the purpose of this regulation, "broke down" is defined as a horse which in the opinion of the official or racing veterinarian is injured so severely that the horse is not expected to survive.

(c) The claim shall be void if the race is called off, canceled, or declared no contest in accordance with Rule 1544 of this division.

Authority: Sections 19420 and 19440,  
 Business and Professions Code.

Reference: Section 19562,  
 Business and Professions Code.

DRAFT

STAFF ANALYSIS  
DISCUSSION AND ACTION BY THE BOARD  
REGARDING AN UPDATE FROM  
SANTA ANITA PARK RACE TRACK REGARDING  
ITS REPAIR EFFORTS AT THE TRACK  
FOLLOWING THE RECENT SEVERE STORM DAMAGE.

Regular Board Meeting  
December 15, 2011

BACKGROUND

On December 1, 2011 the Board was informed that Santa Anita Park Race Track had sustained an estimated \$1 million in damage from the prior evening's Santa Ana wind storm. It was reported that two barns were completely destroyed, with damage to the paddock and grandstand as well. There were no reported injuries to humans or horses. Santa Anita has assessed the damage and is prepared to report to the Board on its efforts in repairing the track for its scheduled December 26, 2011 opening.

RECOMMENDATION

Staff recommends the Board hear from the Santa Anita Park Race Track representative.

STAFF ANALYSIS  
DISCUSSION AND ACTION BY THE BOARD REGARDING A REPORT FROM  
THE CALIFORNIA MARKETING COMMITTEE (CMC) REGARDING ITS 2012  
MARKETING AND PROMOTION PLANS PURSUANT TO BUSINESS AND  
PROFESSIONS CODE SECTION 19605.73(b)

Regular Board Meeting  
December 15, 2011

## BACKGROUND

Business and Professions Code section 19605.73(b) requires the CMC to annually, on November 1, submit a written report to the Board on a statewide marketing and promotion plan for the upcoming calendar year. In addition, the organization shall annually present to the Board at the Board's November meeting a verbal report on the statewide marketing and promotion plan for the upcoming year. The plan shall be implemented as determined by the organization. In addition, Business and Professions Code section 19605.73(b) also states that from the amount that would normally be available for commissions and purses, an amount not to exceed 0.25 percent of the total amount handled by each satellite wagering facility shall be distributed to the CMC. The amounts initially distributed to the CMC shall be 0.2 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only. The amount distributable to the CMC may be adjusted by the Board, in its discretion. However, the adjusted amounts may not exceed an aggregate of 0.25 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only. The promotion funds that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any one year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount. The current board approved rate is 0.25 percent.

Business and Professions Code section 19605.73(c) also requires the CMC on a quarterly basis, to submit to the Board a written report that accounts for all receipts and expenditures of the promotion funds for the previous three months.

## ANALYSIS

The Board received the 2010 CMC's audited financial statements. The CMC's financial statements show that revenue decreased by 18 percent and expenses decreased by 31 percent compared to the prior year. The law requires CMC have its 2011 audited financial statements by April 30, 2012.

The 2012 CMC's budget includes new categories of expenditures and eliminated others from the 2011 budget. The new categories in the 2012 budget include satellite marketing, branding and new media, product enhancement, and mini satellite support.

The categories eliminated from the 2012 budget include public relations and branding campaign, race results line, fair marketing, cal racing website, and the racing kiosks. In addition, the CMC plans to reduce the significant player reward by 29 percent compared to the prior year and increase the administration category by nine percent.

The table 1 and table 2 below show the 2012 and 2011 CMC budgets accordingly.

**Table 1. CMC's 2012 Budget**

Significant Player Reward	500,000
Satellite Marketing	270,000
Branding and New Media	180,000
Product Enhancement	500,000
Mini Satellite Support	29,000
Administration	175,000
Total	<u><u>1,654,000</u></u>

**Table 2. CMC's 2011 Budget**

Significant Player Reward	700,000
Public Relations and Branding Campaign	500,000
Race Results Line	200,000
Fair Marketing	250,000
Cal Racing Website	88,500
Racing Kiosk	10,000
Administration	160,000
Total	<u><u>1,908,500</u></u>

## RECOMMENDATION

Staff recommends the Board hear from the CMC representatives and other interested parties on its marketing and promotion, and its receipts and expenditures plans.

**CALIFORNIA MARKETING COMMITTEE**  
(a California Nonprofit Mutual Benefit Corporation)

**STATEMENTS OF ACTIVITIES**  
For the Years Ended December 31, 2010 and 2009

	2010	2009
Revenues:		
Satellite wagering commissions:		
California Racing Fairs	\$ 248,775	\$ 416,359
Del Mar Thoroughbred Club	414,596	472,206
Golden Gate Fields	819,858	826,000
Hollywood Park Racing Association (Spring)	598,327	663,974
Hollywood Park Racing Association (Fall)	263,194	242,243
Los Angeles County Fair Association	94,931	107,440
Los Angeles Turf Club	789,392	929,345
Oak Tree Racing Association	188,961	291,172
Investment income	8,980	15,525
Workers' Compensation Refund (Note 4)	-	192,024
Video Equipment Rental Fee	400	-
Total revenues	3,427,414	4,156,288
Expenses:		
Program expenses:		
Track Media Match/Purse Enhancement (Note 3)	2,020,889	1,999,544
Racing Fairs Media Match	-	41,000
Database Marketing	597,670	1,287,582
Satellite Marketing	250,000	425,000
California Racing Campaign	119,404	373,069
Cal Bred Program	-	500,000
Special Racing Events	-	372,555
Northern California Replay Show	100,000	226,800
Statewide Race Results Line	50,000	50,000
CHRB Audio Casts	-	26,344
CA Purse PR Campaign	98,879	-
Research & Strategic Planning	349,012	-
Los Alamitos Print	21,051	34,317
General and administrative	192,832	187,028
Total expenses	3,799,737	5,523,239
Change in unrestricted net assets	(372,323)	(1,366,951)
Net assets at beginning of year	687,738	2,054,689
Net assets at end of year	\$ 315,415	\$ 687,738

*The accompanying notes and independent auditor's report should be read with these financial statements.*

## California Marketing Committee

**Significant Player Rewards** ✓

**2012 BUDGET**  
**500,000.00**

Significant Player rewards is an incentive program for players who wager a minimum of \$20,000 per month. Players receive a tiered reward based on their play - varying from 1% to 3%. Players participate under a variety of track frequent fan programs by using a designated club card to place their wagers. This program allows us to identify and stay connected with our most valuable players. The program, often in conjunction with local track programs, also helps attract players to our pools who may be wagering elsewhere. Through Oct. 2011, over 72 unique players participated and qualified under the program, wagering over 17 million in California handle.

**Satellite Marketing****270,000.00**

Satellite Marketing allocation will be used for marketing efforts to promote the California Off-Track Satellite Network, a network of twenty-seven satellite facilities made up of Fairs, tribal casinos and mini-satellites throughout the state. Satellite Marketing programs include the following: CalRacing Club, a card-based satellite customer retention program, which currently consists of 12,500 of California's core horseplayers; statewide giveaways, coordinated closely with tracks; e-mail campaigns and collaborative promotions, such as the current Free Form Fridays during Hollywood Park's Fall meeting. These programs are designed to reward existing customers while generating incremental increases on targeted days at a cost of less than \$10,000 per facility. In 2010, these satellite facilities generated over \$405 million in handle; from that \$405 million in handle, \$1.57 million was distributed to the CMC Promotional Fund and over \$20.7 million was distributed to purses.

**Branding & New Media****180,000.00**

Branding and New Media allocation will support calracing.com, Public Relations and Social Media outreach and the Race Results Line. Calracing.com appeals to owners, trainers and fans alike and provides a place to host free live video and free replays of California races. The site also continues to be a vehicle for posting positive stories on California racing to combat some negative stereotypes. Public Relations outreach will focus on lifestyle events at the tracks while Social Media will continue to focus on Facebook and the 'Inner Jockey' micro site. Race Results Line support will continue in 2012 at a marked reduction in operating cost. The line will change from a toll free call to a caller paid call. The objective will be to transition many of those patrons who do have internet access from the race results line to calracing.com for free replays.

**Product Enhancement****500,000.00**

A new program designed to bolster two-year-old stakes races in both Northern and Southern California. Since the Breeders' Cup added several two-year-old championship season-end events, California was lacking in providing necessary preparatory events to support those new races. CMC funding will be used to support existing two-year-old stakes sprints, as well as aid in the creation of several new two-year-old route turf stakes. This new program will encourage the breeding and importation of young horses to California. Additionally, some funding will be allocated to financially assist the importation of other horses to California.

**New Mini Satellite Support****29,000.00**

A co-op budget, with funds derived from new mini-satellites, Sportech and CMC, has been established for 2012 to advertise and promote new locations. Based on five startups, \$75,000 would be earmarked for advertising and promotion of the new locations through print, outdoor, radio and direct mail media as well as database farming and localized promotions such as handicapping contests, betting vouchers and special events. In addition \$20,000, funded by Sportech and CMC, has been earmarked for mini-satellite awareness advertising, reaching potential new locations primarily through targeted direct mail.

**Administration** ✓**175,000.00**

Directors and Officers insurance; Audit costs; Workers Compensation; Disability; staff salary, taxes & benefits; office and related costs; meeting materials, etc.

<b>TOTAL</b>	<b>1,654,000.00</b>
<b>2012 Projected Fund Generation</b>	<b>1,800,000.00</b>
<b>(Over) / Under</b>	<b>146,000.00</b>

**FUND GENERATION**

	0.04 2010		0.025 2011 (thru 11/30/11)	
<b>Northern Fair Simulcast Locations</b>				
Anderson	6,431.89	0.19%	3,085.60	0.17%
Bakersfield	20,377.43	0.60%	11,020.90	0.61%
Fresno Club One	11,447.33	0.33%	5,964.10	0.33%
Monterey	20,393.75	0.60%	13,413.58	0.74%
San Jose	109,125.35	3.19%	60,976.50	3.36%
San Mateo County	243,420.13	7.12%	130,718.80	7.20%
Tulare	11,909.92	0.35%	6,060.21	0.33%
Turlock	27,819.43	0.81%	14,534.68	0.80%
Vallejo	50,907.13	1.49%	27,969.17	1.54%
	<u>501,832.36</u>	<u>14.68%</u>	<u>273,743.54</u>	<u>15.09%</u>
<b>Northern Racing Fairs and Simulcast</b>				
Ferndale	790.89	0.02%	421.39	0.02%
Fresno	22,262.22	0.65%	10,320.91	0.57%
Pleasanton	134,428.73	3.93%	68,180.31	3.76%
Sacramento	86,002.36	2.52%	44,219.60	2.44%
Santa Rosa	38,517.74	1.13%	20,582.49	1.13%
Stockton	55,787.61	1.63%	28,693.66	1.58%
	<u>337,789.55</u>	<u>9.88%</u>	<u>172,418.36</u>	<u>9.50%</u>
<b>Total N. Racing Fairs and Simulcast</b>	<b>839,621.91</b>	<b>24.56%</b>	<b>446,161.90</b>	<b>24.59%</b>
<b>Northern Track</b>				
Golden Gate	229,010.57	6.70%	122,931.14	6.78%
	<u>229,010.57</u>	<u>6.70%</u>	<u>122,931.14</u>	<u>6.78%</u>
<b>Total Northern California</b>	<b>1,068,632.48</b>	<b>31.26%</b>	<b>569,093.04</b>	<b>31.37%</b>

## Southern California

## Southern Simulcast Locations

Barona	53,707.26	1.57%	30,200.58	1.66%
Cabazon	43,974.57	1.29%	24,201.48	1.33%
Commerce Casino	77,255.13	2.26%	47,818.82	2.64%
Lake Perris	46,904.67	1.37%	24,791.12	1.37%
Lancaster	46,800.83	1.37%	25,149.38	1.39%
Los Alamitos	418,854.19	12.25%	220,505.75	12.15%
OC Tavern	435.61	0.01%	16,853.15	0.93%
San Bernardino	88,971.47	2.60%	45,829.45	2.53%
Santa Maria	16,621.49	0.49%	7,048.69	0.39%
Santa Maria Orig Rdhouse Grill	0.00	0.00%	833.42	0.05%
Shalimar (Indio)	17,416.82	0.51%	10,448.40	0.58%
Surfside Race Place	172,392.99	5.04%	87,722.77	4.84%
Sycuan	19,696.06	0.58%	11,618.90	0.64%
Ventura	89,201.73	2.61%	46,481.23	2.56%
Victorville	16,815.72	0.49%	10,677.44	0.59%
Viejas	33,727.08	0.99%	18,483.33	1.02%
	<u>1,142,775.62</u>	<u>33.43%</u>	<u>628,663.91</u>	<u>34.65%</u>

## Southern Tracks

Del Mar	38,695.15	1.13%	21,143.58	1.17%
Hollywood Park	450,897.32	13.19%	231,239.43	12.75%
Pomona	186,392.42	5.45%	109,649.76	6.04%
Santa Anita	530,641.11	15.52%	254,502.05	14.03%
	<u>1,206,626.00</u>	<u>35.30%</u>	<u>616,534.82</u>	<u>33.98%</u>

<b>Total Southern Tracks</b>	<u>1,206,626.00</u>	<u>35.30%</u>	<u>616,534.82</u>	<u>33.98%</u>
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<b>Total Southern California</b>	2,349,401.62	68.74%	1,245,198.73	68.63%
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<b>Total California</b>	3,418,034.10	100.00%	1,814,291.77	100.00%
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## California Marketing Committee

## Significant Player Rewards ✓

2011 BUDGET

700,000.00

An incentive for players who wager a minimum of \$20,000 per month. Players receive a tiered reward based on their play - varying from 1% to 3%. Players participate under a variety of track frequent fan programs by using a designated club card to place their wagers. This program allows us to identify and stay connected with our most valuable players. Through Oct. 2010, over 79 unique players participated and qualified under the program, wagering over 20 million in California handle.

## Public Relations &amp; Branding Campaign

500,000.00

Analysis from the R&D phase will be leveraged to inform the marketing and branding efforts. Comparing perceptions from horsemen and the general public will enable Bailey Gardiner and CMC to further understand the insider vs. outsider differences in opinions about leading issues and potential solutions. This will drive strategy in creating brand positioning, identity, experience, and ongoing brand management for the creation of new Cal Racing campaign. The research and branding will guide the public relations program which will support two goals. One will be to increase awareness with the consumer about Cal Racing and all the positive attributes attached to it. The other will be to monitor, participate and correct the critical and often negative conversation going on in the industry about Cal Racing.

## Race Results Line

200,000.00

To provide better service to our customers, a statewide free race results line was launched in 2007. For 2010, on average, the line handles over 55,000 calls per week, with nearly 2.8 million in estimated total annual calls.

## Fair Marketing

250,000.00

CMC funds support marketing efforts at fair satellites in close coordination and collaboration with the tracks.

## Cal Racing Website

88,500.00

Calracing.com appeals to owners, trainers and fans alike and provides a place to host free live video and free replays of California races. Feedback regarding the website continues to be overwhelmingly positive from all segments of the industry. The site also continues to be a strong vehicle for posting positive stories on California racing to combat some negative stereotypes, such as medication issues and workers compensation concerns. On average, there are 7,500 visits to the site each weekend day, with 5,800 on average per weekday. In the last eleven months, over 1.7 million visits to the site have been captured.

## Racing Kiosks

10,000.00

Funding toward the creation of two mobile kiosks that will promote California racing. One each will be placed in Northern and Southern California. This is a collaborative project between the tracks and Local 280.

## Administration ✓

160,000.00

D & O insurance; audit costs; workers comp, disability, taxes & benefits; staff salary; office space and related costs; meeting materials, travel, etc.

TOTAL	<u>1,908,500.00</u>
2011 Projected Fund Generation (0.25 %)	<u>1,846,529.00</u>
(Over) / Under	(61,971.00)
2010 Projected Accumulated Surplus	<u>125,654.00</u>
	63,683.00

STAFF ANALYSIS  
DISCUSSION AND ACTION BY THE BOARD  
ABOUT REQUIRING PARAMEDICS IN THE  
ON-TRACK AMBULANCE

Regular Board Meeting  
December 15, 2011

BACKGROUND

Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include licensing of each racing association and all persons, other than the public at large, who participate in a horse racing meeting with pari-mutuel wagering. Business and Professions Code section 19460 states all licenses granted under this chapter shall contain such conditions as are deemed necessary or desirable by the Board for the best interests of horse racing and the purposes of this chapter. Business and Professions Code 19481.3 (a) provides that a qualified and licensed physician shall be on duty at all times during live racing, except that this provision shall not apply to: (1) a quarter horse racing association if there is a hospital situated no more than 1.5 miles from the racetrack and the racetrack has an agreement with the hospital to provide emergency medical services to jockeys and riders, or (2) a harness racing association if there is a hospital situated no more than 2.5 miles from the racetrack and the harness racing association has an agreement with the hospital to provide emergency medical services to injured drivers. An ambulance licensed to operate on public highways provided by the track shall be available at all times during live racing and shall be staffed by two emergency medical technicians licensed in accordance with Division 2.5 (commencing with Section 1797) of the Health and Safety Code, one of whom may be an Emergency Medical Technician Paramedic, as defined in Section 1797.84 of the Health and Safety Code. Board Rule 1468, Ambulance Service, provides that the association shall provide the services of an ambulance and its properly qualified attendants at all times during the running of races at its meeting, or during the hours the association acts under an agreement as an auxiliary training and stabling facility for a host association.

At its February 2011 Regular Meeting the Board discussed a proposed amendment to Rule 1433, Application for License to Conduct a Horse Racing Meeting. The purpose of the amendment was to update and revise the forms CHRB-17, Application for License to Conduct a Horse Racing Meeting, and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair. During the discussion Commissioner Harris raised the issue of the qualifications of persons manning on-track ambulances. He stated there had been concern about the qualifications of the emergency medical personnel versus the Board's expectations. He added the applications needed to reflect the qualifications or certifications of such persons. Commissioner Harris stated the Board was not trying to force extra expenses on the associations, but the issue needed to be addressed. Chairman Brackpool and Commissioner Derek indicated the issue would be discussed at a future Medication and Track Safety Committee meeting. At subsequent Regular Board Meetings Commissioner Derek requested that Del Mar Thoroughbred Club, Pacific Racing Association at Golden Gate Fields, and Pacific Racing Association at Santa

Anita Park Race Track agree to ensure that their on-track ambulances were manned by paramedics. At the October 2011 Regular Board Meeting Hollywood Park Racing Association was informed that since its race meeting would be in progress before the Board could review the issue, it must also ensure it utilized paramedics.

At the October 2011 Regular Board Meeting a representative of the Huntington Ambulance Service spoke about the proposed requirement for the use of paramedics by on-track ambulance services. He stated there were issues that could affect the ability of the ambulance service to quickly transport multiple injured persons to hospitals. While persons certified in Advanced Life Support (ALS) perform more advanced skills such as in-depth patient assessments, cardiac monitoring and evaluation, defibrillation, advanced airway maintenance such as intubation, drug administration and much more, ALS is limited to transporting one patient at a time. The Basic Life Support (BLS) skills performed by Emergency Medical Technicians (EMT) include bleeding control, splinting and oxygen therapy. The Huntington Ambulance Service representative stated BLS services could transport more than one person in an ambulance, which would be an advantage when multiple riders were involved in a spill. Chairman Brackpool stated the issue was important and would be looked at more fully at a future Regular Board Meeting.

At the November 17 Regular Board Meeting, Todd Jones, a Huntington Ambulance Service representative, indicated that an ALS ambulance provider may not be the optimal choice for horse racing associations because an ALS provider must take the time to make base hospital contact and cannot transport as many injured riders as a BLS provider. Rod Blonien from Los Alamitos Quarter Horse Racing Association stated that each county possesses its own regulations in regards to emergency medical situations and it would be problematic for the Board to adopt a statewide regulation. The Board determined the issue warranted additional research and would be revisited at a future meeting of the Board.

## ANALYSIS

As agreed upon by the Board at the November 2011 Regular Board Meeting, the variance in county requirements was researched and the following information was obtained:

### Alameda County

Alameda County has only approved the fire department and Paramedics Plus for paramedics services (ALS). Golden Gate Fields resides in Albany, where Albany Fire Department has the exclusive operating agreement (EOA) with Alameda County. Therefore, only the Alameda Fire Department will perform ALS when transporting any injured rider from Golden Gate Fields. An association contracting with any other private provider may have EMTs and paramedics at Golden Gate Fields, but they may only perform BLS services and cannot transport riders. The BLS provider is required to call 9-1-1 to acquire a paramedic if ALS and a transport are necessary.

### Los Angeles County

Due to a Los Angeles County ordinance change, effective July 28, 2011, all ambulance companies are required to be licensed by the Emergency Medical Services (EMS) Agency if they

are operating in Los Angeles County. There are twenty-six licensed ambulance providers in Los Angeles County that can be contracted for special events; sixteen of the providers are approved by the county to perform ALS care. When a jockey is in an emergency medical condition, the ambulance provider must contact the jurisdictional 9-1-1 provider (for Hollywood Park it is Los Angeles County Fire Department and for Santa Anita it is Arcadia Fire Department). If the ambulance provider was ALS approved by the county, they may begin to administer ALS care; however, if the ambulance provider is not ALS approved, they can only administer BLS care until the Fire Department arrives to perform ALS.

The Los Angeles EMS Agency stated that the transport of an injured patient is at the discretion of the 9-1-1 jurisdictional provider, but about 99 percent of the time the 9-1-1 jurisdictional provider will perform the transport. However, if the 9-1-1 jurisdictional provider decides an injured rider is in need of BLS care, they will determine if it is acceptable for the BLS ambulance provider to perform the transport.

If a jockey has a minor injury that does not involve neurovascular compromise, (such as a cut finger) the BLS provider may transport the jockey (whether staffed by EMTs or paramedics) and the 9-1-1 jurisdictional provider does not need to be contacted.

#### Orange County

According to the Orange County EMS Agency, the only approved ALS providers (EMT-Paramedic service providers) in Orange County are the fire departments. An association (Los Alamitos) may contract with a provider that has EMTs or paramedics, but they are unable to perform ALS. They can only provide BLS services and must call 9-1-1 if ALS level of care is needed. Anyone licensed in Orange County may transport a jockey if it is a BLS situation, but when ALS is needed the fire department paramedics must perform ALS and transport the jockey to a hospital.

#### San Diego County

The San Diego County EMS Agency provided that an association may have a contract with an "agency that provides EMTs, paramedics or registered nurses. EMTs provide Basic Life Support (BLS) services. For a paramedic to perform their scope of practice (beyond BLS) they must be affiliated with an approved paramedic (ALS) service provider and be part of an organized EMS system. Every paramedic service provider must be approved by the local EMS agency. In San Diego County, that approval is contingent on the continuous adherence to State regulations and the County EMS policies and procedures. Staff working at a special event (such as Del Mar) in the role of paramedic and equipped with advanced life support gear are considered to be a part of the established EMS System and are expected to follow the criteria for base hospital contact."

In general, EMTs and paramedics can only act as EMTs and perform BLS. The exception is if a ambulance provider has been ALS approved by the county in the EMS system. Such agencies may perform ALS with base hospital contact. They may transport the jockey to the hospital, but only if they are the provider in the exclusive operating area (EOA). If they are not the EOA owner they can treat the patient and then call the EOA's ambulance provider for a transport.

If the ambulance provider is not a County of San Diego ALS approved provider, 9-1-1 will have to be called for paramedics from the EOA to come to the scene and perform ALS and transport the patient. However, if an association wants to have ALS services before having to call 9-1-1 and the ambulance provider is not an approved ALS provider in the EMS system, a nurse and physician for medical oversight will be needed for ALS to be performed. If it is a BLS level of care situation, anyone licensed may transport the jockey to the hospital.

Cost to Racing Associations for Ambulance Services

The expenditure per hour for ambulance services is as follows:

Del Mar Thoroughbred Club:

- Del Mar Thoroughbred Club stated that the cost for an ALS ambulance with one paramedic and one EMT (driver) is \$120 per hour.

Hollywood Park Racing Association:

- Hollywood Park Racing Association, Eual Wyatt indicated that previously the cost for an ambulance and two EMTs was \$63 per hour. Currently, for an ambulance and two paramedics, “the total for race days is 45 percent more” and “the total for non-race days is more than twice as much.”

Los Alamitos Quarter Horse Racing Association:

- The expense for Los Alamitos Quarter Horse Racing to obtain an ambulance and two EMTs is \$56 per hour.

Los Angeles Turf Club:

- Los Angeles Turf Club indicated the cost per hour for an ambulance and two paramedics is \$95 per hour and for an ambulance and two EMTs it is \$40 per hour.

Pacific Racing Association:

- Pacific Racing Association owns its ambulance and pays insurance for it. It contracts with Turf Ambulance Rescue (a BLS ambulance provider) who provides it with one EMT and one paramedic at \$44.50 per hour.

RECOMMENDATION

This item is presented for Board discussion and action.

STAFF ANALYSIS  
DISCUSSION AND ACTION BY THE BOARD  
REGARDING THE ALLOCATION OF THE  
2012 PRECISE RACE DATES AND OVERLAP  
WITH PACIFIC RACING ASSOCIATION AT GOLDEN GATE FIELDS  
AND THE HUMBOLDT COUNTY FAIR RACE MEETING AT FERNDALE

Regular Board Meeting  
December 15, 2011

## BACKGROUND

Business and Professions Code section 19530 provides the Board the authority to allocate racing weeks to an applicant pursuant to the provisions of the horse racing law and to specify such racing days, dates, and hours for horse racing meetings as will be in the public interest, and will subserve the purposes of the law. Business and Professions Code section 19531 states the Board shall make allocations for racing weeks, including simultaneous racing between zones as it deems appropriate. The maximum number of racing weeks that may be allocated for horse racing other than at fairs, shall be as follows: (a) For thoroughbred racing: 44 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone. (b) For harness racing: 25 weeks per year in the northern zone. (c) For quarter horse racing: 25 weeks per year in the northern zone. (d) For harness racing and quarter horse racing: a total of 77 weeks per year in the combined central and southern zones. Business and Professions Code section 19532(a) specifies any association licensed to conduct thoroughbred racing in the northern zone may receive no more than 35 weeks of that racing. (b) Any association licensed to conduct thoroughbred racing in the central zone may receive no more than 17 weeks of that racing, except that any association which conducts a split meeting may receive up to 20 weeks of that racing. No more than one such split meeting may be licensed in any one year. Business and Professions Code section 19549 provides the maximum number of racing weeks that may be allocated to a fair shall be four weeks each, except under specified conditions.

Board Rule 1430, Allocation of Racing Weeks and Dates, states the Board shall allocate racing weeks and dates for the conduct of horse racing in this State for such time periods and at such racing facilities as the Board determines will best subserve the purposes of the Horse Racing Law and which will be in the best interests of the people of California in accord with the intent of the Horse Racing Law.

## ANALYSIS

At the October 6, 2011 Regular meeting the Board allocated the quarter horse race dates at Los Alamitos from December 23, 2011 through December 23, 2012. Cal Expo Harness Racing Association was allocated the block of dates from December 26, 2011 through June 30, 2012.

The Southern California thoroughbred and fair racing circuit were allocated the following date blocks with the actual live race dates to be determined at the time applications are submitted to the

Board: Los Angeles Turf Club at Santa Anita December 26, 2011 through April 24, 2012; Hollywood Park Racing Association at Hollywood Park April 25 through July 17; Del Mar Thoroughbred Club at Del Mar July 18 through September 5; Los Angeles County Fair at Pomona Fairplex Park September 6 through 25; Pacific Racing Association at Santa Anita September 26 through November 3; Hollywood Park Racing Association at Hollywood Park November 5, 2012 through December 24, 2012.

The Northern California thoroughbred and fair circuit were allocated the following date blocks with the actual live race dates to be determined at the time applications are submitted to the Board: Pacific Racing Association at Golden Gate Fields beginning December 26 2011 through June 17, 2012; Alameda County Fair at Pleasanton June 21 through July 8, 2012; Cal Expo and State Fair Sacramento July 11 through 22<sup>nd</sup>; Santa Rosa County Fair July 25, 2012 through August 12<sup>th</sup>; San Joaquin County Fair at Stockton September 19 through 30; and The Big Fresno Fair October 3 through 14; Pacific Racing Association at Golden Gate Fields October 18 through December 16<sup>th</sup>.

Tentative dates were discussed for Humboldt Count Fair at Ferndale (HCF) with the allocation of precise dates being postponed so to give California Authority of Racing Fairs (CARF) and PRA an opportunity to meet to resolve the issues and return to the Board with an agreement. PRA and CARF submitted the same proposed dates of August 15 through 26. PRA proposed six day overlap; CARF same dates with three days overlap.

Subsequent to the October Regular meeting representatives of the parties met twice to discuss this matter, once at GGF on Saturday October 22 and again in Sacramento on October 31, 2011.

Golden Gate Fields proposed a modification to the position it proposed at the October CHRB meeting. Under GGF's modified proposal, GGF will agree that Humboldt would race solo and act as Host track on Friday August 17, 2012. GGF also agreed that Humboldt would have Host status on Wednesday and Thursday for each of the two weeks that Humboldt has proposed to run in August.

Under this GGF proposal, all Host commissions (100%) from Friday, August 17<sup>th</sup>, 2012, would flow to Humboldt. By comparison, in 2011 GGF and Humboldt shared commissions 50%/50% from one Friday. GGF stated that it could make no further concessions, citing lost revenues to the track and to horsemen as the reason. TOC concurred in this position.

GGF also added a condition for its offer regarding Friday August 17<sup>th</sup>: Its condition was that 2012 would be the last year it would agree to concessions regarding August dates for Humboldt. In future years, GGF would recommend that Humboldt move to June or September. TOC also concurred in this position.

Under this proposal from GGF, Humboldt would act as Host track for five days: Wednesday August 15<sup>th</sup>, Thursday August 16<sup>th</sup>, Friday August 17<sup>th</sup>, Wednesday August 22<sup>nd</sup> and Thursday August 23<sup>rd</sup>.

Humboldt County Fair did not agree to this proposal from GGF. Humboldt stated that the reason that it could not agree to the GGF/TOC proposal "was because it would not meet required purses and commissions to conduct meet."

Humboldt maintained its original proposal for five continuous days of Host status in its first week and two days of Host status in its second week as follows: Host status and right to race solo on Wednesday August 15<sup>th</sup>, Thursday August 16<sup>th</sup>, Friday August 17<sup>th</sup>, Saturday August 18<sup>th</sup> and Sunday August 19<sup>th</sup> of its first week; then Host status and right to race solo on Wednesday August 22<sup>nd</sup> and Thursday August 23<sup>rd</sup> of its second week. Humboldt cited the necessity of generating a sufficient level of purses and commissions as the reason for maintaining this position.

Golden Gate Fields and TOC did not agree to this proposal. The parties at the November 17, 2011 Regular meeting reported that that they have not been able to reach agreement, and agreed to continue their discussions to resolve this issue.

Subsequent to the November Regular meeting, the parties have met and are prepared to make a presentation to the Board.

#### RECOMMENDATION

Staff recommends the Board hear from the parties.

# PROPOSED - 2012 Northern California Race Dates

[Submitted by Pacific Racing Association and Thoroughbred Owners of California]

December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
25	26	27	28	29	30	31
4		1				

Pacific Racing Assoc at GGF	December 26 - June 17
LATC at Golden Gate	August 31 - September 16
Pacific Racing Assoc at GGF	October 18 - December 9
Simulcast Only	47

Pleasanton	13
Cal Expo	10
Santa Rosa	15
Fresno	10

Ferndale (non-overlap)	4
Ferndale (overlap)	6
<b>Stockton</b>	<b>10</b>

January						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				
16		5				

February						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			
16		5				

March						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
19		4				

April						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					
17		4				

May						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		
17		6				

June						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
11		4		7		

July						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				
6		10		5		

August						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	
4	10	2	6		1	

September						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						
11		2				10

October						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			
8		4				10

November						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	
18		4				

December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					
5		6				

*Dates below reflect when each association would be considered the "Host"*

PRA Winter/Spring	12/26 - 6/19
LATC Summer	8/17 - 9/18
PRA Fall	10/17 - 12/25

Stockton	9/19 - 10/2
Pleasanton	6/20 - 7/10
Cal Expo	7/11 - 7/24

Santa Rosa	7/25 - 8/14
Ferndale (non-overlap)	8/15,16,22,23
Fresno	10/3 - 10/16

**Regular Board Meeting  
December 15, 2011**

# PROPOSED - 2012 Northern California Race Dates

[Submitted by California Authority of Racing Fairs (CARF)]

December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
25	26	27	28	29	30	31
4		1				

January						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				
18		4				

May						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		
18		4				

September						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						
10		4				9

PRA @ Golden Gate Fields	December 26 - June 10
LATC @ Golden Gate Fields	August 31 - September 16
PRA @ Golden Gate Fields	October 19 - December 16
Simulcast Only	36

Pleasanton	18
Cal Expo	10
Santa Rosa	15
Fresno	10

Stockton	10
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February						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			
16		5				

June						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
8		2				12

October						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			
10		2				9

March						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
19		4				

July						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				
6		10			5	

November						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	
18		4				

April						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					
17		4				

August						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	
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December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					
10		2				

\*Requested date block allocation, actual live race dates determined at time of application

STAFF ANALYSIS  
December 15, 2011

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING  
OF ODS TECHNOLOGIES, L.P., DBA TVG FOR AN OUT-OF-STATE MULTI-  
JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At the November 17, 2011, Regular Meeting, representatives of the Jockeys' Guild (Guild) voiced objection to the application for advance deposit wagering (ADW) submitted by TwinSpires and requested that the application of the Churchill Downs, Inc. (CDI) subsidiary be deferred until CDI reached agreement with the Guild regarding media rights. The Guild argued that it was unfair to California racing in general, and its race tracks in particular, for CDI to enjoy a competitive advantage in its racing operations by depriving the Guild of the contributions historically made by CDI. The Board deferred consideration of all three 2012 ADW license applications (TVG and XpressBet), allowing for a more thorough review of each applicant's commitment to the health and welfare of jockeys.

A TVG representative is prepared to address the Board concerning this issue.

TVG filed its application as an out-of-state multi-jurisdictional wagering hub to provide Advance Deposit Wagering (ADW). It is currently licensed through December 31, 2011 as an out-of-state multi-jurisdictional wagering hub. TVG Network was acquired by Betfair Group Limited in January 2009.

A bond or other form of financial security in the amount of \$500,000 is required to be submitted with an application for license to conduct advance deposit wagering. TVG, as a current ADW provider, has a \$500,000 bond on file that will expire December 31, 2012.

This application provides for:

TVG has applied for a two-year license beginning January 1, 2012 through December 31, 2013. CHRB Rule 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, allows for a two year license term.

- Business and Profession Code section 19604 includes specific provisions that must be met before an ADW provider can accept wagers. These include:

19604 (b)(1) and (2)

No ADW provider may accept wagers on races conducted in California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.
3. The agreement referenced in subparagraph (2) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the Interstate Horseracing Act shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

No ADW provider may accept wagers on races conducted outside of California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

19604 (a)(7)

"Hub agreement" as a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen's organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California."

19604 (d)(1) (B)

“The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization . . . .”

Documents received in compliance with Business and Professions code section 19604:

TVG’s Associate General Counsel, Melanie Sims Frank provided the following statement clarifying the TVG documents. *“The documents are presented as both hub and license agreements. The agreements that we provided to the Board encapsulate all elements of TVG’s relationships with those racing associations. Specifically, Article II provides the written agreement of the racing association for TVG to accept wagers on its races pursuant to B&P Code Section 19604 (b) (1) (B). The agreements are normally approved by the horsemen’s organization on a meet-by-meet basis. The purpose of a “Hub Agreement” in B&P Code Section 19604 is to set forth the agreed upon contractual compensation retained by TVG for wagers by California residents on races conducted outside of California. The contractual compensation for such wagers is set forth in Section 3.1 of the License Agreements that TVG provided to the Board. We provided License Agreements for each breed as required under the law. . . . .”*

TVG has provided the Board with a copy of three agreements:

- License Agreement by and Between ODS Technologies, L.P. d/b/a TVG Network and Hollywood Park Racing Association dated as of November 6, 2007 agreement extended through and ending November 5, 2013.
- License Agreement by and Between ODS Technologies, L.P. d/b/a TVG Network and Los Alamitos Quarter Horse Racing Association, Los Alamitos Harness Racing Association, dated as of December 12, 2007 agreement ending December 31, 2018.
- License Agreement by an Between ODS Technologies, L.P. and California State Fair (Sacramento) d/b/a Cal Expo, dated as of March 2008 agreement ending December 31, 2012.

TVG has supplied the Board with a copy of their addendum agreement with Pari-mutuel Employees Guild Local 280 (labor organization), extending the terms and conditions of the labor agreement through December 31, 2012. The agreement may be subject to change pending the outcome of arbitration by Local 280 regarding white label third party websites. Monarch Content Management, LLC, is acting as the negotiating party for the 2012 simulcast wagering agreements between the advance deposit wagering providers and the California thoroughbred racing associations, California Authority of Racing Fairs and the Los Angeles County Fair at Pomona. To date the 2012 contracts and/or agreements required pursuant to Business and Professions Code section 19604 that allow ADW providers to accept wagers on races conducted in and outside of California for the applied license term have not been received. Negotiations are proceeding, with the expectation that the required agreements/contracts will be signed in early December, before the commencement of the 2012 racing season.

There are 14 racing venues approved for racing by the California Horse Racing Board: five thoroughbred racing associations, one quarter horse racing association, one harness facility racing and seven fairs. TVG has provided documentation allowing it to accept wagering for only three of the fourteen.

TVG is listed as an ADW provider on the Los Alamitos Quarter Horse Racing Association (Los Alamitos); California Exposition and State Fair Harness Association (Cal Expo); Pacific Racing Association (PRA) and Los Angeles Turf Club (LATC) race meet application.

The following items are outstanding and will need to be submitted and/or resolved before ADW wagers can be accepted:

1. Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows TVG to accept wagers on the remaining 11 racing venues.
2. Horsemen's Agreement

**RECOMMENDATION:**

If the application is considered for approval, staff recommends a contingent approval upon the submission of outstanding items.

STATE OF CALIFORNIA  
 CALIFORNIA HORSE RACING BOARD (CHRB)  
 APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING  
 CHRB-133 (New 9/01)

Application is made to the CHRB for approval to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct Advance Deposit Wagering and must be accompanied by a bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

A. Name, mailing address, telephone and fax numbers:

ODS Technologies, L.P. d/b/a TVG Network  
 19545 N.W. Von Neumann Drive, Suite 210  
 Beaverton, OR 97006  
 Tel: (503) 748-3800 Fax: (503) 748-3838

B. Name, title, license number and racing jurisdiction where licensed for all management personnel:

BJ Cosson, Vice President, Operations & Customer Relations, Oregon License # 20730  
 Dean Kokko, Manager, Wager Operations, Oregon License # 20705  
 Scott Pakel, Manager, Financial Services, Oregon License # 24465  
 Grace Kenworthy, Manager, Customer Relations, Oregon License # 14605

C. Name, title and mailing address of the California agent for receipt of service of process:

John Hindman  
 General Counsel  
 ODS Technologies, L.P. d/b/a TVG Network  
 6701 Center Drive West, Suite 160  
 Los Angeles, CA 90045

D. Attach the contract with the California racing association or fair and the required horsemen's approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.

APPENDIX 1 to this document contains 1) an abstract of valid and binding contracts with the following licensed California racing associations: Hollywood Park, Los Alamitos, and Cal Expo that identifies the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes; 2) copies of License Agreements between i) Hollywood Park; ii) Los Alamitos; and iii) California State Fair (Sacramento) d/b/a Cal Expo.

CHRB CERTIFICATION

Application received: 9/9/11  
 Reviewed: *APP*

Hearing date: 12/15/11  
 Approval date:

2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted: 365 days/year
- B. Hours Advance Deposit Wagering will be conducted: 24 hours/day

3. BUSINESS STRUCTURE

- A.  Corporation (complete subsection B)
- LLC (complete subsection C)
- Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

1. Registered name of the corporation:
2. State where incorporated:
3. Registry or file number for the corporation:
4. Name of all officers and directors, titles, and number of shares of the corporation held by each:
5. Names (true names) of all persons, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading?  Yes  No  
If yes, on what exchange and how is the stock listed:
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
10. Attach the most recent annual financial statement for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

## C. LLC

1. Registered name of the LLC:
2. State where articles of organization are filed:
3. Registry or file number for the LLC:
4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:
5. Names (true names) of all members, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:
6. Are the shares listed for public trading?  Yes  No  
If yes, on what exchange and how is the stock listed:
7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
8. Attach the most recent annual financial statement for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

## D. OTHER

1. Name(s) of partners/sole proprietor:  
  
ODS Holding LLC  
6701 Center Drive West, Suite 160  
Los Angeles, CA 90045  
  
Limited Partner: TSE US LLC
2. If a partnership, attach partnership agreement.

APPENDIX 2 to this document is a copy of the Limited Partnership Agreement for ODS Technologies, L.P.

Pursuant to California Horse Racing Board Rule 1497 and the California Public Records Act, APPENDIX 2 to this document contains personal financial data used to establish TVG's qualifications for licensure/approval and is not subject to public disclosure.

3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

APPENDIX 3 contains the TVG Advance Deposit Wagering Business Plan for the projected term of approval.

4. ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2074.

A. List the procedures to establish an Account:

1. Customers must be at least 21 years of age to establish an advance deposit wagering account.
2. Customers can establish an account by telephone by calling 1-888-PLAY TVG, on the Internet at [www.tvg.com](http://www.tvg.com), by mail, or in person at a TVG retail outlet or racetrack partner by providing the following information:
  - Name
  - Social Security Number
  - Date of Birth
  - Principal Residence Address Including Postal ZIP Code
  - Telephone Number
3. Each application submitted to TVG is subject to electronic verification by a nationally recognized third party information services provider with respect to name, principal residence address including postal zip code, date of birth and Social Security Number. If there is a discrepancy between the application information submitted to TVG and the information provided by the electronic verification described above, or if no information on the applicant is available from such electronic verification, the applicant will be required to provide identification issued by a recognized government agency (driver's license or government ID) showing his or her date of birth and residence address to complete the application process.
4. Provided that the account applicant's information has been positively identified, each applicant is assigned his or her TVG Personal Wagering Account Number and is asked to establish a Personal Identification Number consisting of four (4) numeric characters.

TVG provides each new wagering accountholder with a "Guide to Interactive Wagering" containing standard terms and conditions, deposit and withdrawal information (including customized deposit and withdrawal slips and a direct deposit/withdrawal authorization form) as well as comprehensive information about accessing account information, placing wagers and maintaining the account. APPENDIX 4 contains a TVG "Guide to Interactive Wagering."

B. If an application form is used to establish an Account attach a copy of the form.

A copy of the application form available on [www.tvg.com](http://www.tvg.com) is provided as APPENDIX 5 to this document.

C. Name and address of the third party you will use to verify identity, residence and age verification:

Equifax Credit Information Services  
P.O. Box 4472  
Atlanta, GA 30302

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.

A. Submit a copy of your plan for operation.

The Plan of Operation is contained in APPENDIX 6 to this document.

B. List the type of deposits you will accept:

Deposits will be accepted in the form of:

1. Check, money order or negotiable order of withdrawal;
2. Cash (at designated financial/retail outlets);
3. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder, which may be given by telephone or other secure electronic means;
4. Transfer by means of an electronic funds or ACH (Automated Clearing House) transfer from a monetary account controlled by an account holder to his/her account, said account holder may be liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account;
5. Stored value cards; and
6. Wire transfers.

C. Identify any fees or transaction-related charges and the amount that will be assessed:

TVG account holders have the choice of two fee plans.

1. A transaction fee of \$0.25 per wagering transaction (capped at \$19.95 a month) or
2. A monthly subscription fee of \$19.95.

6. SECURITY ACCESS

A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:

1. Description of the technology to ensure identity, residence, and age verification when an Account is established:

All of the necessary information is contained in the Plan of Operation (APPENDIX 6)

2. Description of the technology to ensure confidentiality of the Means of Personal Identification:

All of the necessary information is contained in the Plan of Operation (APPENDIX 6)

3. Methods and locations available for Account Holders to withdraw funds from their Account:

All of the necessary information is contained in the Plan of Operation (APPENDIX 6)

4. If the Advance Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation:

All of the necessary information is contained in the Plan of Operation (APPENDIX 6)

## 7. PARI-MUTUEL

### A. Name, address and telephone number of the pari-mutuel audit firm:

Oregon Racing Commission  
Suite 310  
800 N.E. Oregon Street, #11  
Portland, OR 97232  
(503) 731-4052

### B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract:

Totalizator services are provided by contract with Scientific Games Racing, LLC. The contract expires December 31, 2011 with provision for an automatic extension of two years. Please refer to the Plan of Operation in APPENDIX 6 for more details.

### C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted:

Ajax Downs, Ajax, ON  
Arapahoe Park, Aurora, CO  
Assiniboia Downs, Winnipeg, MB  
Balmoral Park, Crete, IL  
Beulah Park, Grove City, OH  
Buffalo Raceway, Hamburg, NY  
Cal Expo, Sacramento, CA  
Canterbury Park, Shakopee, MN  
CARF  
Ferndale (Humboldt Co. Fair),  
Fresno (Fresno Fair),  
Pleasanton (Alameda Co. Fair),  
Golden Gate Fair,  
Santa Rosa (Sonoma Co. Fair),  
Stockton (San Joaquin Fair),  
Vallejo (Solano Co. Fair),  
Churchill  
Arlington Park, Arlington  
Heights, IL  
Calder Race Course, Miami  
Gardens, FL  
Churchill Downs, Louisville,  
KY  
Fair Grounds Race Course, New  
Orleans, LA  
Hoosier Park, Anderson, IN  
The Meadows,  
Latin American Racing  
Colonial Downs, New Kent, VA  
Del Mar, Del Mar, CA  
Delaware Park, Wilmington, DE  
Delta Downs, Vinton, LA  
Dover Downs, Dover, DE  
Dubai  
Ellis Park, Henderson, KY

Emerald Downs, Auburn, WA  
Evangeline Downs, Opelousas, LA  
Fair Meadows, Tulsa, OK  
Fairmount Park, Collisville, IL  
Finger Lakes, Farmington, NY  
Fonner Park, Grand Island, NE  
Fort Erie Race Track, Fort Erie,  
ON  
Fraser Downs, Canada  
Freehold Raceway, Freehold, NJ  
Great Britain  
Harrah's Chester Casino &  
Racetrack, Chester, PA  
Harrington Raceway, Harrington,  
DE  
Hastings Racecourse, Vancouver,  
BC  
Hawthorne Racecourse, Stickney/  
Cicero, IL  
Hollywood Park, Inglewood, CA  
Hialeah Park Race Track, Hialeah,  
FL  
Indiana Downs, Shelbyville, IN  
Japan Racing Association  
Keeneland, Lexington, KY  
Kentucky Downs, Franklin, KY  
Lone Star Park at Grand Prairie,  
Grand Prairie, TX  
Los Alamitos, Los Alamitos, CA  
Louisiana Downs, Bossier City, LA  
Maywood Park, Maywood, IL  
Monarch Content Management  
CARF  
Del Mar, Del Mar, CA  
Fairplex Park, Pomona, CA

Golden Gate Fields, Berkeley, CA  
Gulfstream Park, Hallandale Beach,  
FL  
Hollywood Park, Inglewood, CA  
Laurel Park, Laurel, MD  
Lone Star Park, Grand Prairie, TX  
Oak Tree, Arcadia, CA  
Pimlico Race Course, Baltimore,  
MD  
Portland Meadows, Portland, OR  
Santa Anita Park, Arcadia, CA  
Tampa Bay Downs, Tampa, FL  
Monticello Raceway, Monticello,  
NY  
Mountaineer Park, Chester, WV  
Meadowlands, East Rutherford, NJ  
Monmouth Park, Oceanport, NJ  
Northfield Park, Northfield, OH  
NYRA  
Oak Tree, Arcadia, CA  
Ocean Downs, Berlin, MD  
Penn National Gaming Inc.  
Charles Town, Charles Town, WV  
Hollywood Slots, Bangor, ME  
Hollywood Casino at Penn National  
Race Course, Grantville, PA  
Raceway Park, Toledo, OH  
Zia Park, Hobbs, NM  
Philadelphia Park, Bensalem, PA  
Pocano Downs, Wilkes-Barre, PA  
Pompano Park, Pompano Beach, FL  
Prairie Meadows Racetrack,  
Altoona, IA  
Presque Isle Downs, Erie, PA  
Remington Park, Oklahoma City,

OK  
Retama Park, TX  
River Downs, Cincinnati, OH  
Ruidoso Downs, Ruidoso, NM  
Running Aces, Columbus, NM  
Sam Houston Race Park, Houston, TX  
Scioto Downs, Columbus, OH

Singapore (South Africa & Singapore (Kranji))  
Suffolk Downs, East Boston, MA  
Sunland Park (Nuevo Sol Turf Club), Sunland Park, NM  
Tampa Bay Downs, Tampa, FL  
Tioga Downs, Nichols, NY  
Turf Paradise, Phoenix, AZ

Turfway Park, Florence, KY  
Vernon Downs, Vernon, NY  
Will Rogers Downs, Claremore, OK  
Woodbine Racetrack/Mohawk Raceway, Toronto, ON  
Wyvern, Australia  
Yavapai Downs, Prescott, AZ  
Yonkers, Yonkers, NY

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 18.

8. CONTRACTS AND AGREEMENTS

A. List name and address of all organizations you will contract with to facilitate Advance Deposit Wagering that are not provided in other sections of this application:

Scientific Games Racing, LLC  
1500 Bluegrass Lakes Parkway  
Alpharetta, GA 30004  
770.664.3700

Equibase Company LLC  
821 Corporate Drive  
Lexington KY 40503-2794  
(859) 296-3079

Trackmaster, an Equibase Company  
851 Fremont Ave. #109  
Los Altos, CA 94024  
(650) 947-9020

B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed:

9. ADVERTISING

Name and address of the advertising agency you will use:

MEA Digital  
1111 6th Ave, 6th Floor  
San Diego, California 92101  
(T) 619.308.5266 (F) 619.238.8923

NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3) advertisements shall not be deceptive to the public.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this Application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this Application.

John Hindman  
Print Name

General Counsel  
Print Title

  
Signature

Sept 6, 2011  
Date

## STAFF ANALYSIS

December 15, 2011

## APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF XPRESSBET.COM, FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At the November 17, 2011, Regular Meeting, representatives of the Jockeys' Guild (Guild) voiced objection to the application for advance deposit wagering (ADW) submitted by TwinSpires and requested that the application of the Churchill Downs, Inc. (CDI) subsidiary be deferred until CDI reached agreement with the Guild regarding media rights. The Guild argued that it was unfair to California racing in general, and its race tracks in particular, for CDI to enjoy a competitive advantage in its racing operations by depriving the Guild of the contributions historically made by CDI. The Board deferred consideration of all three 2012 ADW license applications (XpressBet and TVG), allowing for a more thorough review of each applicant's commitment to the health and welfare of jockeys.

Subsequent to the November meeting, the Stronach Group issued a release announcing that it has entered into long-term agreement to support the Guild and its member jockeys. Under the terms of the three year agreement, each of the six Stronach Group racetracks will make payment to the Guild to help subsidize health insurance, life insurance and disability benefits as well as benefits for all jockeys who are members of the Guild and ride in the United States. XpressBet, LLC (XpressBet) is a part of the Stronach Group.

An XpressBet representative is prepared to address the Board concerning this issue.

XpressBet filed its application as an out-of-state multi-jurisdictional wagering hub to provide ADW. It is currently licensed through December 31, 2011 as an out-of-state multi-jurisdictional wagering hub. In June 2011, The Stronach Group (TSG) Developments Investments Inc., acquired the gaming assets previously held by MI Developments Inc. (MID) as part of reorganization. Some of the assets acquired were Santa Anita Park, Golden Gate Fields, XpressBet, AmTote and MID's joint venture interest in HRTV.

A bond or other form of financial security in the amount of \$500,000 is required to be submitted with an application for license to conduct ADW. XpressBet, as a current ADW provider, has a \$500,000 bond on file that will expire December 31, 2011. XpressBet has indicated that the bond will be renewed prior to expiration and a copy of the renewed bond will be promptly provided to CHRB.

This application provides for:

- Operating during all times races are running up to twenty-four hours a day. XpressBet has applied for a one-year license beginning January 1, 2012 through December 31, 2012. CHRB Rules 2071, License to Conduct Advance Deposit Wagering by a California Applicant, and 2072, Approval to Conduct Advance Deposit Wagering by an out-of-state Applicant, provide for a two-year license term.
- Business and Profession Code section 19604 includes specific provisions that must be met before an ADW provider can accept wagers. These include:

19604 (b) (1) and (2)

No ADW provider may accept wagers on races conducted in California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.
3. The agreement referenced in subparagraph (2) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the Interstate Horseracing Act shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

No ADW provider may accept wagers on races conducted outside of California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

19604 (a) (7)

"Hub agreement" as a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen's organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California."

19604 (d) (1) (B)

"The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization . . ."

XpressBet has supplied the Board with a copy of their addendum agreement with Pari-mutuel Employees Guild Local 280 (labor organization), extending the terms and conditions of the labor agreement through December 31, 2012. The agreement may be subject to change pending the outcome of arbitration by Local 280 regarding white label third party websites. Monarch Content Management, LLC, is acting as the negotiating party for the 2012 simulcast wagering agreements between the advance deposit wagering providers and the California thoroughbred racing associations, California Authority of Racing Fairs and the Los Angeles County Fair at Pomona. To date the 2012 contracts and/or agreements required pursuant to Business and Professions Code section 19604 that allow ADW providers to accept wagers on thoroughbred and fair races conducted in and outside of California for the applied license term have not been received. Negotiations are proceeding, with the expectation that the required agreements/contracts will be signed in early December, before the commencement of the 2012 racing season.

Cal Expo has provided a copy of its addendum agreement dated December 19, 2011, through December 24, 2012 with XpressBet.

XpressBet is listed as an ADW provider on the California Exposition and State Fair Harness Association; Pacific Racing Association and Los Angeles Turf Club race meet applications.

The following items are outstanding and will need to be submitted and/or resolved before ADW wagers can be accepted:

1. Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allow XpressBet to accept wagers.
2. Horsemen's Agreement
3. Surety bond for term of the license renewal

RECOMMENDATION:

If the application is considered for approval, staff recommends a contingent approval upon the submission of outstanding items.

STATE OF CALIFORNIA  
 CALIFORNIA HORSE RACING BOARD (CHRB)  
 APPLICATION FOR LICENSE TO CONDUCT ADVANCE DEPOSIT WAGERING  
 CHRB-133 (New 9/01)

Application is made to the CHRB for a license to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and comply with the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct advance deposit wagering and must be accompanied by a bond or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

A. Name, mailing address, telephone and fax numbers:

XpressBet, LLC  
 200 Race Track Road  
 Washington, PA 15301  
 Telephone: (412) 232-6916  
 Facsimile: (412) 232-6917

B. Name, title, license number and racing jurisdiction where licensed for all management personnel:

*Please note that under Oregon law, the following individuals are not required to hold a license issued by the Oregon Racing Commission, but each individual does hold a license issued by the CHRB.*

<u>Name</u>	<u>Title</u>	<u>CHRB License No.</u>
Ronald W. Luniewski	President	275875
Dan Newman	Vice President	305020
Lyle Strachan	Executive Vice President	306750
Greg Avioli	Chief Executive Officer	306304
Michael M. Rogers	Vice President	306749

C. Name, title and mailing address of the California agent for receipt of service of process:

CT Corporation System  
 818 West Seventh Street  
 Los Angeles, CA 90017

CHRB CERTIFICATION

Application received: 9/1/11  
 Reviewed: *apo*

Hearing date: 12/15/11  
 Approval date:

- D. Attach the contract with the California racing association or fair and the required horsemen's approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.

Below is a list of the Race Track licensees with which XpressBet either has contracted or is in the process of contracting for the purpose of offering such licensees' content through XpressBet's advance deposit wagering service. Please find attached as Exhibit 1 a copy of various Race Track licensee agreement, along with a copy of XpressBet's agreement with the Thoroughbred Owners of California.

<u>Race Track</u>	<u>Licensee</u>
Santa Anita Park	Los Angeles Turf Club, Incorporated
Golden Gate Fields	Pacific Racing Association/ Cal Fair
California Expo	Sacramento Harness Association
Sacramento	California State Fair
Stockton	San Joaquin Fair
Fresno	Fresno County Fair
Pleasanton	Alameda County Fair
Vallejo	Solano County Fair
Santa Rosa	Sonoma County Fair
Del Mar	Del Mar Thoroughbred Club
Fairplex Park	Los Angeles County Fair Association
Humboldt	Humboldt County Fair
Los Alamitos Race Course	Los Alamitos
Los Angeles Turf Club	Oak Tree Racing Association
Hollywood Park	Hollywood Park Racing Association, LLC

## 2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted:  
XpressBet, LLC will conduct advance deposit wagering January 1, 2012 up to and including December 31, 2012.
- B. Hours Advance Deposit Wagering will be conducted:  
While races are run, up to twenty-four (24) hours per day

## 3. BUSINESS STRUCTURE

- A. Corporation (complete subsection B)  
 LLC (complete subsection C)  
 Other (specify, and complete subsection D)

Complete the applicable subsection

### B. CORPORATION

- Registered name of the corporation:
- State where incorporated:

3. Registry or file number for the corporation:
4. Name of all officers and directors, titles, and number of shares of the corporation held by each;
5. Names (true names) of all entities and persons, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each:
6. Number of outstanding shares in the corporation:
7. Are the shares listed for public trading?      Yes    No  
If yes, on what exchange and how is the stock listed:
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation:
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
10. Attach the most recent annual audited financial statements for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the California Corporations Commission.
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the license.

C. LLC

1. Registered name of the LLC:  
XpressBet, LLC
2. State where articles of organization are filed:  
Delaware
3. Registry or file number for the LLC:  
3373240

4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:

Name	Title	Number of Shares Owned
Ronald W. Luniewski	President	None
Dan Newman	Vice President	None
Greg Avioli	Chief Executive Officer	None
Lyle Strachan	Executive Vice President	None
Michael M. Rogers	Vice President	None

5. Names (true names) of all members, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:

The Stronach Group (TSG) Developments Investments Inc., a Delaware Corporation, holds 100% of the membership interests in the LLC and owns 100 shares.

6. Are the shares listed for public trading?  Yes  No  
If yes, on what exchange and how is the stock listed:

7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:

TSG Developments Investments Inc., a Delaware Corporation that is ultimately controlled by the Stronach Trust, based in Ontario Canada. There are several holding companies between XpressBet, LLC and the Stronach Trust established for tax purposes.

8. Attach the most recent annual audited financial statements for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the California Corporations Commission.

Enclosed is a copy of MID's most recent audited Annual report which XpressBet is a component of the results. Additionally, enclosed is a copy of the XpressBet, LLC Audited Financial Statement Eight Month Period Ending December 31, 2010.

9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the license.

XpressBet's business plan for 2012 is being provided under separate confidential cover, and it is requested that such business plan remain confidential at all times to the CHRB

D. OTHER - Not Applicable

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the license.

4. ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2075

- A. List the procedures to establish an Account:  
Included in the attached Exhibit 2, Plan of Operation, is the Applicant's *Account Opening Procedures*.
- B. If an application form is used to establish an Account, attach a copy of the form.  
Attached as Exhibit 3 is a copy of the application form, similar forms are used for on-site or in-person applications.
- C. Name and address of the third party you will use to confirm identity, residence and age verification:  
In respect of wagers placed through the Applicant's internet and telephone account wagering products, the Applicant will make use of the services of TransUnion, LLC to provide identity, residence and age verification services. The address of TransUnion, LLC is set forth below:

TransUnion, LLC  
555 W. Adams Street  
Chicago, IL 60661

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.

- A. Submit a copy of your plan for operation.  
Please see attached as Exhibit 2 is Applicant's *Plan of Operation*.
- B. List the type of deposits you will accept:  
In respect of internet and telephone account wagering, the Applicant will accept the following types of deposits: cash deposits made directly, personal checks, cashier's checks, money orders made directly or mailed, debits to an Account Holder's credit card or debit card, and wire and other electronic transfers from a monetary account controlled by Account Holder.
- C. Identify any fees or transaction-related charges and the amount that will be assessed:  
For purposes of internet and telephone account wagering, customers will not be charged a monthly membership or wagering fee or a per-call or wager transaction fee. However, customers may be charged a value added transaction fee of \$0.25 per telephone call when dealing with a live teller. Processing fees may be charged in respect of deposits made pursuant to Item 5B above, via credit card cash advance or wire transfers.

To the extent credit cards are used/permitted in connection with internet and telephone account wagering, processing fees for credit card cash advances will be no greater than 6%. High value customers may not be subject to credit card cash advance processing fees.

A wire transfer of less than \$250.00 is subject to a \$5 processing fee. A wire transfer of greater than \$250.00 is not subject to any charge.

Customers requesting special delivery (e.g. courier) may be charged the cost of those services.

As the distribution platforms evolve and future enhancements deliver increased functionality to customers, monthly fees or surcharges may be implemented for added value services.

## 6. SECURITY ACCESS

- A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:  
Please refer to Exhibit 4 for Items 1 – 4.
1. Description of the technology to ensure identity, residence, and age verification when an Account is established.
  2. Description of the technology to ensure confidentiality of the Means of Personal Identification.
  3. Methods and locations available for Account Holders to withdraw funds from their Account.
  4. If the Account Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation.

## 7. PARI-MUTUEL

- A. Name, address and telephone number of the pari-mutuel audit firm:

Bowen & McBeth  
10722 Arrow Route, Suite 110  
Rancho Cucamonga, California 91730  
Telephone: 909-944-6465  
Facsimile: 909-980-4788

- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract:

- (i) Types of pari-mutuel or totalizator equipment to be used.  
Totalizator equipment and services will be provided to Applicant by AmTote International, Inc. In addition to standard totalizator equipment and services, Applicant will be utilizing (a) IVR – “interactive voice response technology” (an automated touch-tone betting system), provided by AmTote International, Inc. (b) on-line computer wagering technology (c) IVR – natural language voice recognition system provided by AmTote International, Inc. and Applicant is currently operating under an agreement with AmTote International, Inc. which expires on October 31, 2012. XpressBet fully expects to renew a long term agreement with AmTote early in 2012. The CHRB will be notified upon execution.

- (ii) Simulcast Organization  
Roberts Communications Network, Inc., and AmTote International, Inc.
- (iii) Name of entity supplying equipment, and expiration date of the service contract.  
Equipment to be supplied by:

AmTote International, Inc.  
11200 Pepper Road  
Hunt Valley, MD 21031-1324  
Expiration date: October 31, 2012

- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted:

Attached as Exhibit 5 is the list of racing venues on which the Applicant currently intends to accept Advance Deposit Wagering. The applicant will update the website as racing venues are confirmed or added.

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 21.

## 8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you contracted with to facilitate Advance Deposit Wagering:

AmTote International, Inc.  
11200 Pepper Road  
Hunt Valley, MD 21031-1324

- B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed:

N/A

## 9. ADVERTISING

Name and address of the advertising agency you will use:

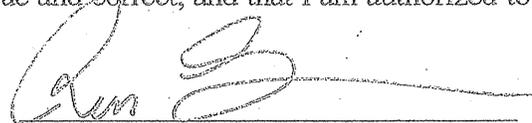
Candelaria Advertising  
1545 Idlewood Rd.  
Glendale, California 91202

NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3), advertisements shall not be deceptive to the public.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this application, that all of the foregoing statements in this application are true and correct, and that I am authorized to attest to this application.

Ron Luniewski  
Print Name:

  
Signature:

President  
Print Title:

8-26-11  
Date:

**Wagner, Jacqueline**

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**From:** Chabrier, Gene  
**Sent:** Wednesday, November 30, 2011 12:16 PM  
**To:** Wagner, Jacqueline  
**Subject:** xpressbet response to Jockey's Guild issue

FOR IMMEDIATE RELEASE  
[mrogers@adenastallions.com](mailto:mrogers@adenastallions.com)

CONTACT: Mike Rogers

## Stronach Group announces long-term support for Jockeys' Guild

ARCADIA, Calif. (Nov. 1, 2011)—The Stronach Group announced today that it has entered into a long-term agreement to support the Jockeys' Guild and its member jockeys. Under the terms of the 3-year deal, each of the six Stronach Group racetracks will make payments to the Jockeys' Guild to help subsidize health insurance, life insurance and disability benefits as well as benefits for all jockeys who are members of the Guild and ride in the United States. The Stronach Group racetracks include Santa Anita Park, Gulfstream Park, Golden Gate Fields, Portland Meadows, Laurel Park and Pimlico Race Course, home of the Preakness Stakes.

Mike Rogers, Vice President, Racing of The Stronach Group, stated: "This is the right thing to do for the jockeys and the sport. Frank Stronach has always believed in the importance of all segments of the horse racing industry doing their part to support the health and welfare of the jockeys."

Terry Meyocks, National Manager of the Jockeys' Guild, stated: "We very much appreciate the commitment and support from Frank Stronach and The Stronach Group racetracks. This agreement will directly benefit approximately 750 active and permanently disabled members. Currently, the Guild provides life insurance, AD&D insurance and temporary disability benefits to its active members, as well as life insurance and aid to the permanently disabled members. To continue this effort, it is critical that we receive support from all of our racetrack partners within the industry. We all should be working together to help promote our sport."

### About The Stronach Group

The Stronach Group is a privately-held consortium that owns, operates and manages a number of leading businesses in a wide range of industries, including: Thoroughbred racing and gaming; Thoroughbred horse breeding; agriculture; electric vehicle technologies; and medical technologies. The Stronach Group also owns a number of premier development properties and real estate assets in North American and Europe.

### About The Jockeys' Guild

Jockeys' Guild, Inc., the organization representing professional jockeys in American Thoroughbred and Quarter Horse racing, was founded in May, 1940 and has approximately 950 members, including active, retired disabled jockeys. The purpose is to protect jockeys, strive to achieve a safer racing environment, to obtain improved insurance and other benefits for members and to monitor developments in local, state and federal laws affecting the racing industry, and in particular, the jockeys.

STAFF ANALYSIS  
December 15, 2011

APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING (ADW) OF CHURCHILL DOWNS TECHNOLOGY INITIATIVES COMPANY DBA TWINSPIRES FOR AN OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB, FOR A PERIOD OF UP TO TWO YEARS.

At the November 17, 2011, Regular Meeting, representatives of the Jockeys' Guild (Guild) voiced objection to the application for advance deposit wagering (ADW) submitted by Twinspires and requested that the application of the Churchill Downs, Inc. (CDI) subsidiary be deferred until CDI reached agreement with the Guild regarding media rights. The Guild argued that it was unfair to California racing in general, and its race tracks in particular, for CDI to enjoy a competitive advantage in its racing operations by depriving the Guild of the contributions historically made by CDI. The Board deferred consideration of all three 2012 ADW license applications (XpressBet and TVG), allowing for a more thorough review of each applicant's commitment to the health and welfare of jockeys.

Subsequent to the November meeting, CDI submitted a response to the objection by the Guild and informed the Board that it would address this matter at the December 15, 2011 Regular Board Meeting. The Guild also provided a response to the CDI's December 1, 2011 letter concerning this issue.

CDI's representative is prepared to address the Board concerning this issue.

Twinspires filed its application as an out-of-state multi-jurisdictional wagering hub. It is currently licensed through December 31, 2011 as an out-of-state multi-jurisdictional wagering hub. Churchill Downs Technology Initiatives Company acquired Youbet, a prior ADW licensed provider, in June 2010.

A bond or other form of financial security in the amount of \$500,000 must be submitted with an application for license to conduct ADW. Twinspires, as a current ADW provider, has a \$500,000 bond on file that is continuous until cancelled.

This application provides for:

- Operation normally 24 hours a day, 7 days a week, except December 25. Twinspires has applied for a one-year license. CHRB Rule 2071 and 2072 allows for a two-year license term.

19604 (b)(1) and (2)

No ADW provider may accept wagers on races conducted in California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. A written agreement allowing those wagers exists with the racing association or fair conducting the races on which the wagers are made.

3. The agreement referenced in subparagraph (2) shall have been approved in writing by the horsemen's organization responsible for negotiating purse agreements for the breed on which the wagers are made in accordance with the Interstate Horseracing Act (15 U.S.C. Sec. 3001, et seq.), regardless of the location of the ADW provider, whether in California or otherwise, including, without limitation, any and all requirements contained therein with respect to written consents and required written agreements of horsemen's groups to the terms and conditions of the acceptance of those wagers and any arrangements as to the exclusivity between the host racing association or fair and the ADW provider. For purposes of this subdivision, the substantive provisions of the Interstate Horseracing Act shall be taken into account without regard to whether, by its own terms, that act is applicable to advance deposit wagering on races conducted in California accepted from residents of California.

No ADW provider may accept wagers on races conducted outside of California from a resident of California unless all of the following conditions are met:

1. The ADW provider must be licensed by the Board.
2. There is a hub agreement between the ADW provider and one or both of (i) one or more racing associations or fairs that together conduct no fewer than five weeks of live racing on the breed on which wagering is conducted during the calendar year during which the wager is placed, and (ii) the horsemen's organization responsible for negotiating purse agreements for the breed on which wagering is conducted.

19604 (a)(7)

“"Hub agreement" as a written agreement providing for contractual compensation paid with respect to advance deposit wagers placed by California residents on a particular breed of racing conducted outside of California. In the event a hub agreement exceeds a term of two years, then an ADW provider, one or more racing associations or fairs that together conduct no fewer than five weeks of live racing for the breed covered by the hub agreement, and the horsemen's organization responsible for negotiating purse agreements for the breed covered by the hub agreement shall be signatories to the hub agreement. A hub agreement is required for an ADW provider to receive contractual compensation for races conducted outside of California.”

19604 (d)(1) (B)

“The board shall not approve an application for an original or renewal license as an ADW provider unless the entity, if requested in writing by a bona fide labor organization no later than ninety days prior to licensing, has entered into a contractual agreement with that labor organization . . .”

Pari-mutuel Employees Guild Local 280 (labor organization) has supplied the Board with a copy of their addendum agreement with Twinpires, extending the terms and conditions of the labor agreement through December 31, 2012. The agreement may be subject to change pending the outcome of arbitration by Local 280 regarding white label third party websites. Monarch Content Management, LLC, is acting as the negotiating party for the 2012 simulcast wagering agreements between the advance deposit wagering providers and the California thoroughbred racing associations, California Authority of Racing Fairs and the Los Angeles County Fair at Pomona. To date the 2012 contracts and/or agreements required pursuant to Business and Professions Code section 19604 that allow ADW providers to accept wagers on thoroughbred and fair races conducted in and outside of California for

the applied license term have not been received. Negotiations are proceeding, with the expectation that the required agreements/contracts will be signed in early December, before the commencement of the 2012 racing season.

Cal Expo has provided a copy of their addendum agreement dated December 18, 2011, through December 31, 2014 with Twinpires to the Board.

Twinpires is listed as an ADW provider on the California Exposition and State Fair Harness Association; Pacific Racing Association and Los Angeles Turf Club race meet applications.

The following items are outstanding and will need to be submitted and/or resolved before ADW wagers can be accepted:

1. Contract and/or agreements required pursuant to Business and Professions Code section 19604 that allows Twinpires to accept wagers.
2. Horsemen's Agreement

**RECOMMENDATION:**

If the application is considered for approval, staff recommends a contingent approval upon the submission of outstanding items.

STATE OF CALIFORNIA  
CALIFORNIA HORSE RACING BOARD (CHRB)  
APPLICATION FOR APPROVAL TO CONDUCT ADVANCE DEPOSIT WAGERING  
CHRB-133 (New 9/01)

Application is made to the CHRB for approval to conduct Advance Deposit Wagering in accordance with the California Business and Professions (B&P) Code and CHRB Rules and Regulations (Rule) and the provisions of the Interstate Horseracing Act, 15 U.S.C. 3001 to 3007.

NOTICE – By submitting the Application the out-of-state Applicant consents to the jurisdiction of California courts and the application of California law as to all California wagers and operations.

Application must be filed not later than 90 days in advance of the date scheduled to conduct Advance Deposit Wagering and must be accompanied by a bond from a surety company admitted in the state of California or other form of financial security in the amount of \$500,000.

1. OUT-OF-STATE MULTI-JURISDICTIONAL WAGERING HUB (out-of-state Hub)

- A. Name, mailing address, telephone and fax numbers: Churchill Downs Technology Initiatives Company (dba TwinSpires), 800 W. El Camino Real, Mountain View, CA 94040. Phone (650) 429-2900 Fax: (650) 967-3201
- B. Name, title, license number and racing jurisdiction where licensed for all management personnel:  
Rohit Thukral, President – licensed in California (294716)  
Mike Cody, Vice President – licensed in California (294715)  
Brad Blackwell, Vice President – licensed in California (304449) and Kentucky (9212)  
Jeremy Clemons, Vice President
- C. Name, title and mailing address of the California agent for receipt of service of process:  
CT Corporation System  
818 West Seventh St.  
Los Angeles, CA 90017
- D. Attach the contract with the California racing association or fair and the required horsemen’s approval under the Interstate Horseracing Act that permits you to provide Advance Deposit Wagering services and identify the amount of the market access fee to be paid to the California racing association or fair for access to the California market for wagering purposes.  
See Tab 1

2. DATES OF OPERATION

- A. Dates Advance Deposit Wagering will be conducted:  
Every day of the year during the license period except December 25<sup>th</sup>
- B. Hours Advance Deposit Wagering will be conducted:  
24 hours a day

3. BUSINESS STRUCTURE

- A.  Corporation (complete subsection B)
- LLC (complete subsection C)
- 

CHRB CERTIFICATION

Application received: 9/6/11  
Reviewed: *apu*

Hearing date: 12/15/11  
Approval date:

Other (specify, and complete subsection D)

Complete the applicable subsection

B. CORPORATION

1. Registered name of the corporation: Churchill Downs Technology Initiatives Company
2. State where incorporated: Delaware
3. Registry or file number for the corporation: 4284783
4. Name of all officers and directors, titles, and number of shares of the corporation held by each:  
 Rohit Thukral, President  
 Mike Cody, Vice President  
 Brad Blackwell, Vice President  
  
 Robert Evans, Director  
 William Carstanjen, Director  
 Rebecca Reed, Director  
 Rohit Thukral, Director  
  
 No officer or director directly holds any shares of applicant as applicant is a wholly-owned subsidiary of Churchill Downs Incorporated
5. Names (true names) of all persons, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the corporation and the number of shares held by each: N/A as applicant is the wholly owned subsidiary of a corporate entity
6. Number of outstanding shares in the corporation: 100
7. Are the shares listed for public trading?  Yes  No  
 If yes, on what exchange and how is the stock listed:  
 Applicant is the wholly-owned subsidiary of Churchill Downs Incorporated (traded as CHDN on Nasdaq)
8. Name of the custodian of the list of shareholders and/or the transfer agent for the share holdings of the corporation: Bradley K. Blackwell
9. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:  
 Churchill Downs Incorporated holds 100% of the shares of the applicant
10. Attach the most recent annual financial statement for the corporation, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the corporation and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation. Attached at Tab 3 is the most recent Annual Report on Form 10-K for Churchill Downs Incorporated
11. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures

and cash flow by month projected for the term of the approval. Attached at Tab 4

C. LLC

1. Registered name of the LLC:
2. State where articles of organization are filed:
3. Registry or file number for the LLC:
4. Names of all officers and directors, titles, and the number of shares of the LLC held by each:
5. Names (true names) of all members, other than the officers and directors listed above, that hold 5% or more of the outstanding shares in the LLC and the number of shares held by each:
6. Are the shares listed for public trading?  Yes  No  
If yes, on what exchange and how is the stock listed:
7. If more than 50% of the shares are held by a parent corporation or are paired with any other corporation or entity, give the name of the parent and/or paired corporation or entity:
8. Attach the most recent annual financial statement for the LLC, including balance sheet and profit and loss statement, and a copy of a report made during the preceding 12 months to shareholders in the LLC and/or the Securities and Exchange Commission and/or the corresponding state where you registered your corporation.
9. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

D. OTHER

1. Name(s) of partners/sole proprietor:
2. If a partnership, attach partnership agreement.
3. Attach a business plan to include a detailed budget that shows anticipated revenue, expenditures and cash flow by month projected for the term of the approval.

4. ESTABLISHING ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2074.

- A. List the procedures to establish an Account: See Section 2.1 of the Plan of Operations attached at Tab 6 which complies with Rule 2074
- B. If an application form is used to establish an Account attach a copy of the form. Attached at Tab 5 is the form of application available online at [www.twinspires.com](http://www.twinspires.com)
- C. Name and address of the third party you will use to verify identity, residence and age verification: Equifax Secure, Inc., 1550 Peachtree St., NW, Atlanta, GA 30309

5. OPERATION OF ADVANCE DEPOSIT WAGERING ACCOUNTS – must comply with Rule 2073.
- A. Submit a copy of your plan for operation. Attached at Tab 6
  - B. List the type of deposits you will accept: ACH, credit card, debit card, Green Dot Money Pack, cash at specified locations, check and money order by mail.
  - C. Identify any fees or transaction-related charges and the amount that will be assessed: 3.98% is applied to credit/debit card transactions by processor and 4.5% is charged for credit card advance transactions process over the phone by the processor. \$25 fee for returned checks.
6. SECURITY ACCESS
- A. Attach your security access policy and safeguards pursuant to B&P Section 19604 (c) (2). Policy must include the following:
    1. Description of the technology to ensure identity, residence, and age verification when an Account is established: Applicant uses Equifax, an independent third party, to provide comprehensive verification of the account information provided by customers. For a more detailed description of verification see Section 2.1.1.1 of the Plan of Operations attached at Tab 6.
    2. Description of the technology to ensure confidentiality of the Means of Personal Identification: See Section 2.1.5 of the Plan of Operations attached at Tab 6.
    3. Methods and locations available for Account Holders to withdraw funds from their Account: Requests for withdrawals may be made online or by phone. Checks are mailed to the address on file within five business days. For more details, see the Plan of Operations attached at Tab 6.
    4. If the Advance Deposit Wagering records will be maintained at a site other than the out-of-state Hub provide the name, address, telephone and fax numbers and the hours of operation: 6130 NE 78<sup>th</sup> Court, Suite C4, Portland, OR (phone: (503) 253-0234; fax: (503) 253-0140) with hours of operation of 8:30 am to 10:30 pm PST or later depending on the last race of the day. Records are also maintained at 801 Corporate Drive, Lexington, KY (phone: (877) 774-7371) with hours of operation of 9:00 am to 1:00 am EST.

7. PARI-MUTUEL

- A. Name, address and telephone number of the pari-mutuel audit firm: PricewaterhouseCoopers LLP, 500 W. Main St., Suite 1800, Louisville, KY 40202
- B. Type(s) of pari-mutuel or totalizator equipment to be used and the simulcast organization, name of the entity supplying equipment, and expiration date of the service contract: Totalizator services are provided by AmTote International, Inc. The contract expires November, 2012.
- C. List the locations of the racing venues on which Advance Deposit Wagering will be accepted: See the tracks listed at Tab 7 which are subject to annual simulcast agreements.

NOTICE – The pari-mutuel system used must use a device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making a wager and by which a person must subscribe to in order to place, receive or otherwise make a wager; an effective customer and age verification system and the appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is under the age of 18.

8. CONTRACTS AND AGREEMENTS

- A. List name and address of all organizations you will contract with to facilitate Advance Deposit Wagering that are not provided in other sections of this application:  
 Global Cash Access, 3525 E. Post Rd., Suite 120, Las Vegas, NV 89120  
 Green Dot Corporation, 605 E. Huntington Dr., Suite 205, Monrovia, CA 91016  
 Roberts Communications Network, Inc., 4175 Cameron St., Suite B-10, Las Vegas, NV 89103  
 US-Offtrack, 6130 NE 78<sup>th</sup> Court, Suite C4, Portland, OR
- B. List each contract or agreement to facilitate Advance Deposit Wagering that is not finalized and signed: N/A

9. ADVERTISING

Name and address of the advertising agency you will use: Hoffman York, 142 East Ontario, Suite 13, Chicago, IL 60611

NOTICE – Pursuant to Rule 2072 (h) all advertisements shall contain a statement that persons under 18 are not allowed to open or have access to Accounts. All advertisements shall contain contact information for a recognized problem-gambling support organization. Additionally, pursuant to B&P Section 19604 (D) (3) advertisements shall not be deceptive to the public.

10. CERTIFICATION

I hereby certify under penalty of perjury that I have examined this Application, that all of the foregoing statements in this Application are true and correct, and that I am authorized to attest to this Application.

Print Name

Signature

Print Title

Date